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Executive Orders

EXECUTIVE ORDER MJF 00-19

Bond Allocation C Denham Springs/Livingston
Housing & Mortgage Finance Authority

WHEREAS, Executive Order No. MJF 2000-9, issued on March 28, 2000, granted a private activity bond allocation from the 2000 private activity bond volume limit to the Denham Springs/Livingston Housing & Mortgage Finance Authority, in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2000-9 in order to extend the time period in which the bonds may be delivered to initial purchasers;

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

SECTION 1: Section 3 of Executive Order No. MJF 2000-9, issued on March 28, 2000, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the year of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before August 30, 2000.

SECTION 2: All other sections of Executive Order No. MJF 2000-9 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 26th day of June, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0007#014

EXECUTIVE ORDER MJF 00-20

Bond Allocation C Parish of Jefferson
Home Mortgage Authority

WHEREAS, Executive Order No. MJF 2000-13, issued on March 28, 2000, granted a private activity bond allocation from the 2000 private activity bond volume limit to the Parish of Jefferson Home Mortgage Authority, in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2000-13 in order to extend the time period in which the bonds may be delivered to initial purchasers;

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

SECTION 1: Section 3 of Executive Order No. MJF 2000-13, issued on March 28, 2000, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the year of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before July 31, 2000.

SECTION 2: All other sections of Executive Order No. MJF 2000-13 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 26th day of June, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0007#015

EXECUTIVE ORDER MJF 00-21

Continuation of Hiring Freeze

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, House Bill No. 1 of the 2000 Second Extraordinary Special Session of the Louisiana Legislature, and/or R.S. 42:375, the governor may issue executive orders which prohibit the filling of any new or existing employment vacancies in the executive branch of state government (hereafter "hiring freeze"); and

WHEREAS, to ensure that the state of Louisiana will not suffer a budget deficit due to 2000-2001 appropriations exceeding actual revenues, prudent money management practices dictate that the best interests of the citizens of the state of Louisiana will be served by continuing the hiring freeze throughout the executive branch of state government ordered in Executive Order No. MJF 2000-18, issued on May 4, 2000, during the first quarter of the 2000-2001 fiscal year, to achieve as great a state general fund dollar savings as possible;

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

SECTION 1: Unless specifically exempted by Section 2 of this Order, no vacancy in an existing or new position of employment within the executive branch of state government, which existed on or occurred after May 4, 2000, the date of issuance of Executive Order No. MJF 2000-18, shall be filled without the express written approval of the commissioner of administration (hereafter "hiring freeze").

SECTION 2: All budget activities exempt from the hiring freeze ordered in Executive Order No. MJF 2000-18 are exempt from the provisions of this Order.

SECTION 3: Each department, agency, office, board or commission shall file monthly reports with the commissioner of administration on August 10, 2000, September 10, 2000, and October 10, 2000, reflecting projected savings that the department, agency, office, board or commission will generate through the implementation of this Order. Such reports shall reflect a full accounting of personnel changes within the department, agency, office, board or commission for the reporting period covered, including an accounting of employment figures at the beginning and end of the reporting period and the number of vacancies filled and/or not filled during the reporting period, pursuant to the provisions of this Order. The reports shall include a categorized summary of transactions which resulted pursuant to the exemption granted in Section 2 of this Order and/or permitted pursuant to Subsection 4 of this Order.

SECTION 4: The provisions of Section 4 of Executive Order No. MJF 2000-18 are continued in effect.

SECTION 5: This Order is effective upon signature and shall remain in effect through September 30, 2000, or until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 30th day of June, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0007#016

EXECUTIVE ORDER MJF 00-22

Bond Allocation
Louisiana Local Government Environmental Facilities and Community Development Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2000 (hereafter "the 2000 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2000 Ceiling to be used in connection with a program for the acquisition, construction, and equipping of a new 24,700 square foot manufacturing facility and a 5,000 square foot covered work area in the parish of East Baton Rouge, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2000 as follows:

Amount Of Allocation	Name Of Issuer	Name Of Project
\$1,500,000	Louisiana Local Government Environmental Facilities and Community Development Authority	Fabricated Steel Products, Inc.

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before October 9, 2000.

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

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

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

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

Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of July, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0007#099

EXECUTIVE ORDER MJF 00-23

Bond Allocation Louisiana Local Government
Environmental Facilities and Community
Development Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2000 (hereafter "the 2000 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2000 Ceiling to be used in connection with a program to provide financing for the acquisition, construction, installation, and equipping of improvements, extensions and additions to Central Claiborne Water System, Inc.'s water facilities, including a new well, transmission lines and an extension of its service area around the Claiborne Parish Correctional Facility, as a part of its waterworks system located in the parish of Claiborne, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2000 as follows:

Amount Of Allocation	Name Of Issuer	Name Of Project
\$500,000	Louisiana Local Government Environmental Facilities and Community Development Authority	Central Claiborne Water System, Inc.

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

Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before October 9, 2000.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of July, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0007#098

EXECUTIVE ORDER MJF 00-24

Formosan Termite Task Force

WHEREAS, Executive Order No. MJF 98-48, signed on October 8, 1998, established the Formosan Termite Task Force (hereafter "Task Force"), and Executive Order No. MJF 99-20, signed on May 18, 2000, increased the membership of the Task Force; and

WHEREAS, it is necessary to amend Executive Order No. MJF 98-48, to add to the membership to the Task Force;

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

SECTION 1: Section 4 of Executive Order No. MJF 98-48 is amended to provide as follows:

The Task Force shall consist of the following twenty-five (25) members who, unless otherwise specified, shall be appointed by, and serve at the pleasure of, the governor:

1. the governor, or the governor's designee;
2. the commissioner of the Department of Agriculture and Forestry, or the commissioner's designee;
3. the secretary of the Department of Health and Hospitals, or the secretary's designee;

4. the secretary of the Department of Environmental Quality, or the secretary's designee;
5. the secretary of the Department of Economic Development, or the secretary's designee;
6. two (2) members of the Senate designated by the president of the Senate;
7. two (2) members of the House of Representatives designated by the speaker of the House of Representatives;
8. the chancellor of the Louisiana State University Agriculture Center, or the chancellor's designee;
9. the president of Jefferson Parish, or the president's designee;
10. the presiding officer of the Jefferson Parish Council, or the presiding officer's designee;
11. the mayor of the city of New Orleans, or the mayor's designee;
12. the presiding officer of the New Orleans City Council, or the presiding officer's designee;
13. the executive director of the New Orleans Mosquito and Termite Control Board, or the executive director's designee;
14. the director of the Southern Regional Research Center, Agricultural Research Service, United States Department of Agriculture, or the director's designee;
15. the president of the Louisiana Farm Bureau Federation, or the president's designee;
16. one (1) homeowner in the Greater New Orleans Metropolitan Area;
17. one (1) French Quarter property owner;

18. one (1) pest control industry specialist;
19. one (1) member of the Louisiana Home Builders Association;
20. one (1) member of the Louisiana Building Material Dealers;
21. one (1) member of the Louisiana Paper and Pulp Association;
22. one (1) member of the Louisiana Realtors Association; and
23. one (1) at-large member.

SECTION 2: All other sections and subsections of the Executive Order No. MJF 98-48 shall remain in full force and effect.

SECTION 3: Executive Order No. MJF 99-20, signed on May 18, 2000, is terminated and rescinded.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 11th day of July, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0007#097

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Restriction on Application of Certain Pesticides (LAC 7:XXIII.143)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:3203, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the application of an ultra low volume insecticide to be applied to cotton fields infested with boll weevils.

The application of the insecticide, in accordance with the current concentration regulations, has not been sufficient to control or eradicate the boll weevil. Failure to allow the concentrations in ultra low volume (ULV) malathion applications will allow the boll weevil the opportunity to destroy the cotton bolls during the early growing season, effectively destroying the cotton crop. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana Agricultural producers thereby creating an imminent peril to the health and safety of Louisiana citizens.

These emergency rules become effective upon signature and will remain in effect for 120 days or until these rules are adopted through the normal promulgation process.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§145. Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications

A.1 - 4. ...

5. Unless further restricted by other regulations or labeling, the chemicals listed in §143.K above shall be applied in a minimum of five gallons of total spray mix per acre. With the following exceptions:

a. insecticides applied in the Boll Weevil Eradication Program, which shall be applied in accordance with their labels, all other agriculture pesticides, unless further restricted by other regulations or labeling, shall be applied in a minimum of one gallon of total spray mix per acre;

b. malathion insecticide applied with the following conditions to control boll weevil in cotton.

i. The commissioner hereby declares that prior to making any aerial application of ULV malathion to cotton, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental

Programs (DPEP) in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by state or federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches, schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by Commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to overflight between take-off and the commencement of spray operations, or overflight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. There shall be no aerial spraying when wind velocity exceeds 10 miles per hour.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicator's responsibility to determine if people are present prior to initiating treatment.

ix. Spraying will not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed five feet above the cotton canopy. However, in fields that are not near sensitive areas, if infield obstructions make the five-foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the Bill Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotorspan. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60 percent and 75 percent of the wingspan/rotorspan. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles.

xx. A positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction.

xxi. Bleed lines in any point that may trap air on the pressure side of the spraying system.

xxii. An operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure.

xxiii. A 50-mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer.

xxiv. Aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size.

xxv. All nozzles not in use must be removed and the openings plugged.

xxvi. Nozzle tips for all insecticides shall be made of stainless steel.

xxvii. Aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time of the entire flight from take-off to landing and differentiate between spray-on and spray-off.

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Differential correction may be provided by fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than three feet. Systems that do not provide course deviation updates at one-second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication at three feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of three hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one second intervals while ferry and turnaround time can be two second intervals. The full logging record will include position, time, date, altitude, speed in miles per hour, cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require five minutes or more to generate the map for a three hour flight on a PC (minimum a 386 microprocessor with 4 MB

of memory) will not be accepted. When viewed on the monitor or the printed hard copy, the flight path will clearly differentiate between spray on and off. The software must be capable of replaying the entire flight in slow motion and stop and restart the replay at any point during the flight. Must be able to zoom to any portion of the flight for viewing in greater detail and print the entire flight or the zoomed-in portion. Must have a measure feature that will measure distance in feet between swaths or any portion of the screen. Must be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be "user friendly," as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion shall be at an application rate of 12 ounces per acre with no dilutions or tank mixes.

xxxv. Applications of ULV malathion shall not be made prior to May 20.

xxxvi. Applications of ULV malathion shall be restricted to seven day intervals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), LR 26:

Bob Odom
Commissioner

0007#006

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Forestry

Seedling Prices (LAC 7:XXXIX.301)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:4303, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations

The adoption of this rule is necessary so that seedling sales by the Louisiana Department of Agriculture and Forestry can begin as scheduled on August 1, 2000. Seedling prices must be set at a price that covers the cost of production, since department nurseries are required to operate entirely on self-generated seedling sales revenue. Total seedling production and related costs can only be completely verified after crops have germinated and successfully entered into the growing season, which has only recently occurred. Seedling inventory and fiscal information have confirmed the need to adopt this new price structure. Although seedlings are not lifted for replanting until winter months, pre-paid sales must begin in late summer so landowners can confirm reforestation plans. Final seedling

prices must be in effect prior to the acceptance of orders on August 1, 2000.

These emergency rules become effective upon signature and will remain in effect for 120 days or until these rules are adopted through the normal promulgation process.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 3. Tree Seedlings

§301. Seedling Prices

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

1. Improved Pine Seedlings	\$	32 per thousand
2. Advanced Generation Pine Seedlings	\$	42 per thousand
3. Special Pine Seedlings	\$	52 per thousand
4. Hardwood Seedlings	\$	185 per thousand
5. Baldcypress Seedlings	\$	175 per thousand

B.1 - 3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, Forestry Commission, LR 8:285 (June 1982), amended LR 10:458 (June 1984), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 13:432 (August 1987), LR 19:610 (May 1993), LR 21:671 (July 1995), LR 22:1210 (December 1996), LR 26:

Bob Odom
Commissioner

0007#038

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving) Program (LAC 28:VI.107, 301, 307, 309)

The Louisiana Tuition Trust Authority (LATA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to re-promulgate and amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2).

The emergency rules are necessary to make the program more attractive, simplify distribution and to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective June 1, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

**Title 28
EDUCATION**

**Part VI. Student Financial AssistanceC Higher
Education Savings**

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§101. Program Description and Purpose

A. The Louisiana Student Tuition Assistance and Revenue Trust (START Saving) Program was enacted in 1995 to provide a program of savings for future college costs to:

1. help make education affordable and accessible to all citizens of Louisiana;
2. assist in the maintenance of state institutions of postsecondary education by helping to provide a more stable financial base to these institutions;
3. provide the citizens of Louisiana with financing assistance for education and protection against rising tuition costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education;
4. encourage academic excellence, to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state; and
5. encourage recognition that financing an education is an investment in the future.

B. The START Saving Program establishes Education Savings Accounts by individuals, groups, or organizations with provisions for routine deposits of funds to cover the future educational costs of a designated Beneficiary or a group of beneficiaries.

1. In addition to earning regular interest at competitive rates, certain accounts are also eligible for Tuition Assistance Grants provided by the state to help offset the Beneficiary's cost of postsecondary Tuition.

2. The grant amount is determined by the Account Owner's federal annual income and total annual deposits of principal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), repromulgated LR 26:

§103. Legislative Authority

Act Number 547 of the 1995 Regular Legislative Session, effective June 18, 1995, enacted the Louisiana Student Tuition Assistance and Revenue Trust (START) Saving Program as Chapter 22-A, Title 17 of the Louisiana Revised Statutes (R.S. 17:3091-3099.2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), repromulgated LR 26:

§105. Program Administration

A. The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the Louisiana Student Financial Assistance Commission (LASFAC), plus one member from the Louisiana Bankers Association, the state treasurer, and one member each from the house of representatives and state senate.

B. The LATTA administers the START Saving Program through the Louisiana Office of Student Financial Assistance (LOSFA).

C. LOSFA is the organization created to perform the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the START Saving Program under the direction of the LATTA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), repromulgated LR 26:

§107. Applicable Definitions

*Account Owner*Cthe person(s), Independent Student, organization or group that completes a Depositors Agreement on behalf of a Beneficiary or beneficiaries and is the Account Owner of record of all funds credited to the account.

*Beneficiary*Cthe person named in the Education Savings Account Depositors Agreement as the individual entitled to apply the account balance, or portions thereof, toward payment of their postsecondary Qualified Higher Education Expenses.

*Depositor's Agreement*Cthe agreement for program participation executed by the Account Owner which incorporates, by reference, R.S. Chapter 22-A, Title 17, and the rules promulgated by the LATTA to implement this statute and any other state or federal law applicable to the agreement.

*Education Assistance Account (EAA)*Can account which is eligible for Tuition Assistance Grants and is established on behalf of a designated Beneficiary by a parent, grandparent, legal guardian, or person claiming the Beneficiary as a dependent on their federal income tax or by an independent undergraduate on his own behalf.

*Education Savings Account*Ca comprehensive term which refers to the two types of accounts that may be established under the program: an *Education Assistance Account* and an *Education Scholarship Account*.

*Education Scholarship Account (ESA)*Can account which is not eligible for Tuition Assistance Grants and is established on behalf of a Beneficiary or beneficiaries by a person or organization other than a parent, grandparent, legal guardian, Independent Student or person claiming the Beneficiary or beneficiaries as dependent(s) on that person's or organization's federal income tax return.

*Educational Term*Ca semester, quarter, term, summer session, inter-session, or an equivalent unit.

*Eligible Educational Institution*Ceither a state college, university, or technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. secretary of education or a public or independent college or university located outside this state that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. secretary of education or a state licensed proprietary school licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto.

Emergency RefundCa refund of the Redemption Value of an account due to an unforeseen event which has adversely impacted the Account Owner, such as termination of employment, death, or permanent disability and resulted in a severe reduction in income or extraordinary expenses.

Enrollment PeriodCthat period designated by the LATTA during which applications for enrollment in the START program will be accepted by the LATTA.

False or Misleading InformationCa statement or response made by a person which is knowingly false or misleading and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

Family MemberCin reference to the account Beneficiary:

1. an ancestor of such individual;
2. the spouse of such individual;
3. step-sibling(s) and their spouse;
4. a lineal descendant of such individual, of such individual's spouse or parent of such individual or the spouse of any lineal descendant described herein. A legally adopted child of an individual shall be treated as a lineal descendant of such individual.

Fully Funded AccountCan account having a Redemption Value equal to or greater than five times the annual Tuition at the highest cost Louisiana public college or university projected to the scheduled date of the Beneficiary's first enrollment in an Eligible Educational Institution. An account which is "fully funded" is no longer eligible for accrual of Tuition Assistance Grants. However, if subsequent cost projections result in the fully funded amount being more than the account balance, then Tuition Assistance Grants may resume until the level of the most recent Fully Funded Account projection has been met.

Independent StudentCa person who is defined as an Independent Student by the Higher Education Act of 1965, as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the Beneficiary of an Education Assistance Account.

Louisiana Education Tuition and Savings Fund (the Fund)Ca special permanent fund maintained by the Louisiana State Treasurer for the purpose of the START Saving Program, consisting of deposits made by Account Owners pursuant to the START Saving Application and Depositors Agreement, interest earned on said deposits as a result of investment by the Louisiana State Treasurer, accumulated penalties and forfeitures, and the Tuition Assistance Fund, which is a special sub-account designated to receive Tuition Assistance Grants appropriated by the State, and interest earned thereon.

Louisiana Office of Student Financial Assistance (LOSFA)Cthe organization responsible for administering the START Saving Program under the direction of the Louisiana Tuition Trust Authority.

Louisiana ResidentC

1. any person who resided in the state of Louisiana continuously during the 12 months immediately prior to the date of application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

- a. if registered to vote, is registered to vote in Louisiana;

- b. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;

- c. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;

- d. if earning an income, has complied with state income tax laws and regulations.

2. a member of the Armed Forces stationed outside of Louisiana, but who claims Louisiana as his "home of record" and is in compliance with Paragraph 1.d above, is exempt from the requirement of continuous residence in the stateduring the 12 months preceding the date of completion of the Depositors Agreement;

3. a member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

4. persons less than 21 years of age are considered Louisiana Residents if they reside with and are dependent upon one or more persons who meet the above requirements.

Louisiana Tuition Trust Authority (LATTA)Cthe statutory body responsible for the administration of the START Saving Program.

Maximum Allowable Account BalanceCthe amount, determined annually and expressed as a current dollar value, which is equal to five times the Qualified Higher Education Expenses at the highest cost institution in the state. Once the Redemption Value of an Education Assistance Account equals or exceeds the Maximum Allowable Account Balance, principal deposits will no longer be accepted for the account. However, if subsequent increases occur in the Maximum Allowable Account Balance, principal deposits may resume until the Redemption Value equals the most recently determined Maximum Allowable Account Balance.

Qualified Higher Education ExpensesCtuition, fees, books, supplies, equipment, and Room and Board required for the enrollment or attendance of a designated Beneficiary at an eligible institution of postsecondary education

Rate of ExpenditureCCthe rate [see §309.C] per Educational Term, at which funds may be disbursed from an Education Assistance Account to pay the Beneficiary's Qualified Higher Education Expenses at an Eligible Educational Institution.

Redemption ValueCthe cash value of an Education Savings Account attributable to the sum of the principal invested, the interest earned on principal and authorized to be credited to the account by the LATTA, any Tuition Assistance Grants appropriated by the legislature and authorized by the LATTA to be allocated to the account and the interest earned on Tuition Assistance Grants, less any Tuition Assistance Grants or interest thereon restricted from expenditure and less any penalties required by *Internal Revenue Code*, §529(b)(3). If the account has a Redemption Value after the Beneficiary has completed his educational program, this excess value shall be treated as a refund.

Refund RecipientCthe person authorized by the Depositors Agreement, or by operation of law, to receive refunds from the account.

Room and BoardCqualified Room and Board costs include the reasonable cost for the academic period incurred by the designated Beneficiary for Room and Board while

attending an Eligible Educational Institution on at least a half time basis, not to exceed the maximum amount included for Room and Board for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 1087II) for the Eligible Educational Institution for such period. Room and Board are only Qualified Higher Education Expenses for students who are enrolled at least half time.

Scheduled Date of First-Enrollment For a dependent Beneficiary, is the month and year in which the Beneficiary turns 18 years of age. For an Independent Student, the scheduled date of first-enrollment is the expected date of enrollment reported by the Independent Student Beneficiary. This date is used to determine eligibility for Tuition Assistance Grants. See the term "*Fully Funded Account*."

Tuition the mandatory educational charges required as a condition of enrollment and limited to undergraduate enrollment. It does not include nonresidence fees, laboratory fees, Room and Board nor other similar fees and charges.

Tuition Assistance Grant a payment allocated to an Education Assistance Account, on behalf of the Beneficiary of the account, by the state. The grant amount is calculated based upon the Account Owners annual federal adjusted gross income and total annual deposits of principal. The grant and interest earned may only be used to pay the Beneficiary's Tuition, or portion thereof, at an Eligible Educational Institution.

Voucher a negotiable draft payable from the Louisiana Education Tuition and Savings Fund. All Vouchers issued by the LATTA shall bear an expiration date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), amended LR 25:1794 (October 1999), LR 26:

Chapter 3. Education Savings Account

Note: Except where otherwise provided, all terms, conditions, and limitations in this Chapter shall apply to both Education Assistance Accounts and Education Scholarship Accounts.

§301. Education Assistance Accounts (EAA)

A. An Education Assistance Account is an Education Savings Account eligible for Tuition Assistance Grants, which is established on behalf of a designated Beneficiary by a parent, grandparent, legal guardian or the person claiming the designated Beneficiary of the account as a dependent on their federal income tax return, or by an Independent Student on his own behalf to acquire an undergraduate certificate, associate degree, or undergraduate degree.

B. **Program Enrollment Period.** An account may be opened and an eligible Beneficiary may be enrolled at any time during the calendar year.

C. **Completing the Depositors Agreement**

1. This agreement must be completed, in full, by the Account Owner.

2. The Account Owner shall designate a Beneficiary.

3. The Account Owner may designate a limited power of attorney to another person who would be authorized to act on the Account Owner's behalf, in the event the Account Owner became incapacitated.

4. Transfer of Account Ownership is not permitted, except in the case of the death of an Account Owner.

5. Only the Account Owner or the Beneficiary may be designated to receive refunds from the account.

D. **Agreement to Terms.** Upon executing a Depositors Agreement, the Account Owner certifies that he understands and agrees to the following statements:

1. Admission to a Postsecondary Educational Institution that participation in the START Program does not guarantee that a Beneficiary will be admitted to any institution of postsecondary education;

2. Payment of Full Tuition that participation in the START Program does not guarantee that the full cost of the Beneficiary's Tuition will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student;

3. Maintenance of Continuous Enrollment that once admitted to an institution of postsecondary education, participation in the START Program does not guarantee that the Beneficiary will be permitted to continuously enroll or receive a degree, diploma, or any other affirmation of program completion;

4. Guarantee of Redemption Value that the LATTA guarantees payment of the Redemption Value of any Education Savings Account, subject to the limitations imposed by R.S. 17:3098;

5. Conditions for Payment of Education Expenses that payments for Qualified Higher Education Expenses under the START Saving Program are conditional upon the Beneficiary's acceptance and enrollment at an Eligible Educational Institution;

6. Fees that except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of an account; financial institutions may be authorized by the LATTA to offer assistance in establishing a START Program account.

E. **Acceptance of the Depositors Agreement**

1. A properly completed and submitted Depositors Agreement will be accepted upon receipt.

2. Upon acceptance of the Depositors Agreement, the LATTA will establish the account of the named Beneficiary.

F. **Citizenship Requirements.** Both the Account Owner and Beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or

2. be a permanent resident of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and provide copies of INS documentation with the submission of the Depositors Agreement.

G. **Residency Requirements**

1. On the date an account is opened, either the Account Owner or his designated Beneficiary must be a Louisiana Resident, as defined in §107 of these rules.

2. The LATTA may request documentation to clarify circumstances and formulate a decision that considers all facts relevant to residency.

H. **Providing Personal Information**

1. The Account Owner is required to disclose personal information in the Depositors Agreement, including:

a. his Social Security number;

b. the designated Beneficiary's Social Security number;

- c. the Beneficiary's date of birth;
- d. the familial relationship between the Account Owner and the designated Beneficiary;
- e. the Account Owner's prior year's federal adjusted gross income amount as reported to the Internal Revenue Service.

2. By signing the Depositors Agreement, the Account Owner provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

3. By signing the Depositors Agreement, the Account Owner certifies that both Account Owner and Beneficiary are United States Citizens or permanent residents of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and, if permanent residents have provided copies of INS documentation with the submission of the Application and Depositors Agreement, and that either Account Owner or Beneficiary is and has been a Louisiana Resident for 12 consecutive months.

4. Social Security numbers will be used for purposes of federal income tax reporting and to access individual account information for administrative purposes [see §315].

I. First Disbursement Restriction. A minimum of one year must lapse between the date the Account Owner makes the first deposit opening an account and the first disbursement from the account to pay a Beneficiary's Qualified Higher Education Expenses, which will normally be the Beneficiary's projected scheduled date of first-enrollment in an Eligible Educational Institution.

J. Number of Accounts for a Beneficiary. There is no limit on the number of Education Savings Accounts that may be opened for one Beneficiary by different Account Owners; however, the sum total of funds in all accounts for the same Beneficiary may not exceed the Maximum Allowable Account Balance for that Beneficiary and the sum of all Education Assistance Accounts will be used to determine when these accounts are fully funded for the purpose of earning Tuition Assistance Grants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:

§303. Reserved

§305. Deposits to Education Savings Accounts

A. Application Fee and Initial Deposit Amount

1. No application fee will be charged to participants applying for a START Program account directly to the LATTA.

2. Financial institutions may be authorized by the LATTA to offer assistance in establishing a START Program account.

3. An initial deposit is not required to open an Education Savings Account; however, a deposit of at least \$10 in whole dollar amounts must be made within 60 days from the date on the letter of notification of approval of the account.

4. A lump sum deposit may not exceed the Maximum Allowable Account Balance [see §107].

B. Deposit Options

1. The Account Owner shall select one of the following deposit options during the completion of the Depositors Agreement; however, the Account Owner may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

- a. occasional lump sum payment(s);
- b. monthly payments made directly to the LATTA or to a LATTA-approved financial institution;
- c. automatic account debit, direct monthly transfer from the Account Owner's checking or savings account to the LATTA;
- d. payroll deduction, if available through the Account Owner's employer.

2. Account Owners are encouraged to maintain a schedule of regular monthly deposits.

3. After acceptance of the Depositors Agreement and annually thereafter, the LATTA will project the amount of the monthly deposit that will assure the Account Owner of sufficient savings to meet the Qualified Higher Education Expenses of the Beneficiary at the scheduled date of enrollment at the selected institution, or the highest cost public institution if one was not preselected.

C. Limitations on Deposits

1. All deposits must be rendered in whole dollar amounts of at least \$10 and must be made in cash (check, money order, credit or debit card), defined as any of the deposit options listed in §305.B.1.

tuition assistance grants.

2. A minimum of \$100 must be deposited annually for the account to be considered for award of state tuition assistance grants.

3. Once the account becomes fully funded [see §107], it will no longer be considered for Tuition Assistance Grants, regardless of the total amount of annual deposits made to the account. 4. Once the Redemption Value has reached or exceeded the Maximum Allowable Account Balance [see §107], principal deposits will no longer be accepted to the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), repromulgated LR 26:

§307. Allocation of Tuition Assistance Grants

A. Tuition Assistance Grants are state-appropriated funds allocated to an Education Assistance Account, on behalf of the Beneficiary named in the account.

1. The grants are calculated based upon the Account Owner's annual federal adjusted gross income and total annual deposits of principal.

2. Although allocated to individual accounts, Tuition Assistance Grants are state funds and shall be held in an escrow account maintained by the state treasurer until disbursed to pay Tuition costs at an eligible institution as set forth in §307.G.

B. Providing Proof of Annual Federal Adjusted Gross Income

1. The Account Owner's annual federal adjusted gross income is used in computing the annual Tuition Assistance Grant allocation.

2. To be eligible in any given year for a Tuition Assistance Grant, the Account Owner of an Education Assistance Account must:

a. authorize the LATTA to access the Account Owner's state tax return filed with the Louisiana Department of Revenue; or

b. provide the LATTA a copy of his federal income tax return filed for that year.

3. In completing the Depositors Agreement, the Account Owner of an Education Assistance Account authorizes the LATTA to access his records with the Louisiana Department of Revenue, for the purposes of verifying the Account Owner's federal adjusted gross income. In the event the Account Owner will not file his tax information with the Louisiana Department of Revenue by their May 15 deadline, he must provide the LATTA with:

a. a copy of the form filed with the Internal Revenue Service (Form 1040, 1040A, 1040EZ, or 1040TELE); or

b. a notarized statement as to why no income tax filing was required of the Account Owner.

4. To ensure timely allocation of Tuition Assistance Grants to the account, the Account Owner should provide these documents prior to July 1 following the applicable tax year. Tuition Assistance Grants will not be allocated to an Education Assistance Account until the LATTA has received verification of an Account Owner's federal adjusted gross income and interest on Tuition Assistance Grants will not accrue to the benefit of an Education Assistance Account until the LATTA has authorized the Tuition Assistance Grant allocation to the account.

5. If the Account Owner fails to provide the required tax documents by December 31 of the year following the taxable year, the account shall not be allocated a Tuition Assistance Grant for the year being considered.

C. Availability of Tuition Assistance Grants

1. The availability of Tuition Assistance Grants to be allocated to Education Assistance Accounts is subject to an appropriation by the Louisiana Legislature.

2. In the event that sufficient grants are not appropriated during any given year, the LATTA shall reduce Tuition Assistance Grant rates, pro rata, as required to limit grants to the amount appropriated.

D. Tuition Assistance Grant Rates. The Tuition Assistance Grant rates applicable to an Education Assistance Account are determined by the federal adjusted gross income of the Account Owner, according to the following schedule:

Reported Federal Adjusted Gross Income	Tuition Assistance Grant Rate*
0 to \$14,999	14 percent
\$15,000 to \$29,999	12 percent
\$30,000 to \$44,999	10 percent
\$45,000 to \$59,999	8 percent
\$60,000 to \$74,999	6 percent
\$75,000 to \$99,999	4 percent
\$100,000 and above	0 percent

*Rates may be reduced pro rata, to limit grants to amounts appropriated by the Legislature.

E. Restrictions on Allocation of Tuition Assistance Grants to Education Assistance Accounts. The allocation of

Tuition Assistance Grants is limited to Education Assistance Accounts which have:

1. principal deposits totaling at least \$100 annually; and

2. have an Account Owner's reported federal adjusted gross income of less than \$100,000; and

3. have a Redemption Value that is less than that of a Fully Funded Account [see §107]; and

4. have an Account Owner or Beneficiary who is a resident of the State of Louisiana, as defined in §107 in the year for which a Tuition Assistance Grant is allocated.

F. Frequency of Allocation of Tuition Assistance Grants to Education Assistance Accounts. Tuition Assistance Grants will be allocated annually and reported to Account Owners after July 1, following the Account Owners required disclosure of their prior years reported federal adjusted gross income.

G. Rate of Interest Earned on Tuition Assistance Grants. The rate of interest earned on Tuition Assistance Grants shall be the rate of return earned on the Tuition Assistance Fund as reported by the state treasurer.

H. Restriction on Use of Tuition Assistance Grants

1. Tuition Assistance Grants, and any interest which may accrue thereon, may only be expended in payment of the Beneficiary's Tuition, or a portion thereof, at an Eligible Educational Institution.

2. Tuition Assistance Grants may not be used to pay for any Qualified Higher Education Expenses other than Tuition.

3. Tuition Assistance Grants, although allocated to a Beneficiary's account and reported on the Account Owners annual statement, are assets of the state of Louisiana until disbursed to pay a Beneficiary's Tuition at an eligible institution. 4. Tuition Assistance Grants are not the property of the Account Owner or Beneficiary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. Vouchers.

1. Prior to each Educational Term, the LATTA will forward to the Beneficiary a Voucher with a statement specifying the Redemption Value of the Beneficiary's account, classified as Deposits or Tuition Assistance Grants, which may be expended for Qualified Higher Education Expenses and instructions for completion and submission of the Voucher.

2. The Beneficiary shall complete the Voucher by inserting the amount of the funds to be withdrawn and then signing it. The amount of funds to be withdrawn shall not exceed the Beneficiary's actual Qualified Higher Education Expenses for the Educational Term attended.

3. Upon completion, the Beneficiary shall submit the Voucher to the institution he shall attend.

B. Rate of Expenditure

1. As authorized by the Beneficiary on a payment Voucher, the amount to be disbursed from an account shall be drawn from deposits (including earnings on deposits) and

Tuition Assistance Grants (including earnings on grants) in the same ratio as these funds bear to the Redemption Value of the account.

2. For an Educational Term, the Beneficiary may not withdraw an amount in excess of the Qualified Higher Education Expenses for that term or the Redemption Value of the account or that amount calculated under 1, above, whichever is less.

C. Payments to Eligible Educational Institutions

1. Upon the Beneficiary's enrollment and the institution's receipt of a Voucher, the institution may bill the START program for the Qualified Higher Education Expenses of the Beneficiary, up to the amount specified on the Voucher or the Beneficiary's actual Qualified Higher Education Expenses for that Educational Term, whichever is less.

2. The institution shall bill the START program by endorsing the Voucher and submitting it to LATTA. Vouchers shall be submitted in batches. Submission of a Voucher is certification by an institution that the amount of the Voucher does not exceed the Beneficiary's actual Qualified Higher Education Expenses for that Educational Term, the Beneficiary has enrolled, and the Tuition Assistance Grant component of the payment was credited to Tuition.

3. Upon receipt of the Voucher(s), the LATTA will disburse funds from the appropriate accounts, consolidate and forward payment directly to the institution.

4. The LATTA will make all payments for Qualified Higher Education Expenses directly to the Eligible Educational Institution.

5. No payments by LATTA for Qualified Higher Education Expenses shall be disbursed directly to the Beneficiary.

6. Payments forwarded to an institution by LATTA on behalf of a Beneficiary which exceed institutional charges shall be promptly refunded to the Beneficiary for payment of other Qualified Higher Education Expenses.

D. Failure to Attend and Withdrawal During an Educational Term

1. If the designated Beneficiary of an Education Savings Account enrolls, but fails to attend or withdraws from the institution prior to the end of the Educational Term and disbursements from the Education Savings Account have been used to pay all or part of his Qualified Higher Education Expenses for that Educational Term, an institutional refund to the Education Savings Account may be required.

2. If any refund is due the Beneficiary from the institution, a pro rata share of any refund of Qualified Higher Education Expenses, equal to that portion of the Qualified Higher Education Expenses paid by disbursements from the Education Savings Account, shall be made by the institution to the LATTA.

3. The LATTA will credit any refunded amount to the appropriate Education Savings Account.

E. Receipt of Scholarships

1. If the designated Beneficiary of an Education Savings Account is the recipient of a scholarship, waiver of Tuition, or similar subvention which cannot be converted into money by the Beneficiary, the Account Owner or the Beneficiary may request a refund from the Education

Savings Account in the amount equal to the value of the scholarship, waiver or similar subvention up to the balance of principal and interest in the account.

2. Upon the institution's verification that the Beneficiary received a scholarship, waiver or similar subvention, the LATTA will refund, without penalty, the amount to the Account Owner or the Beneficiary, as designated in the Depositor's Agreement.

F. Advanced Enrollment. A Beneficiary may enroll in an Eligible Educational Institution prior to his scheduled date of first-enrollment [see §107] and utilize Education Savings Account funds; however, a Beneficiary may not utilize funds from an Education Savings Account prior to one year from the date the Beneficiary made the first deposit opening the account.

G. Part-Time Attendance and Nonconsecutive Enrollment. A Beneficiary may utilize funds in an Education Savings Account for enrollments which are nonconsecutive and for part-time attendance at an Eligible Educational Institution. Room and Board is only a qualified higher education expense for students who are enrolled at least half time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 26:

§311. Termination and Refund of an Education Savings Account

A. Account Contributions. Contributions to an Education Savings Account are voluntary.

B. Account Terminations

1. The Account Owner may terminate an account at any time.

2. The LATTA may terminate an account in accordance with §311.E.

3. The LATTA may terminate an account if no deposit of at least \$10 dollars in whole dollar amounts has been made within 60 days from the date on the letter of notification of approval of the account.

C. Refunds

1. A partial refund of an account may only be made as described in §311.F.3.

2. All other requests for refund will result in the refund of the Redemption Value and termination of the account.

D. Designation of a Refund Recipient

1. In the Depositor's Agreement, the Account Owner may designate the Beneficiary to receive refunds from the account; however, the Beneficiary, if so designated, must be enrolled in an Eligible Educational Institution to be eligible for receipt of any such refund, otherwise the refund will be made directly to the Account Owner or his estate.

2. Refunds of interest earnings will be reported as income to the individual receiving the refund for both federal and state tax purposes.

3. In the event the Beneficiary receives any refund of principal from the account, the tax consequence must be determined by the recipient.

E. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate a Depositor's Agreement if it finds that the Account Owner or Beneficiary provided False or Misleading Information [see §107].

2. All interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

3. An individual who obtains program benefits by providing False or Misleading Information will be prosecuted to the full extent of the law.

F. Voluntary Termination of an Account without Penalty. No penalty will be assessed for accounts which are terminated and fully refunded or partially refunded due to the following reasons:

1. the death of the Beneficiary; the refund shall be equal to the Redemption Value of the account, less unexpended Tuition Assistance Grants and interest thereon, and shall be made to the Account Owner;

2. the disability of the Beneficiary; the refund shall be equal to the Redemption Value of the account, less unexpended Tuition Assistance Grants and interest thereon, and shall be made to the Account Owner or the Beneficiary, as designated in the Depositor's Agreement;

3. the Beneficiary receives a scholarship, waiver of Tuition, or similar subvention that the LATTA determines cannot be converted into money by the Beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of Tuition, or similar subvention awarded to the Beneficiary.

G. Voluntary Termination of an Account with Penalty

1. Refunds for any reason other than those specified in §311.E and F will be assessed a penalty of 10 percent of interest earned on principal deposits accumulated in said account at the time of termination which has not been expended for Qualified Higher Education Expenses.

2. Reasons for voluntary account termination with penalty include, but are not limited to the following:

a. request by an Account Owner, an Account Owners estate or legal successor, for reasons other than those specified in §311.E and F.

b. decision not to attend; upon notification in writing that the Beneficiary has reached 18 years of age and has stated he does not intend to attend an institution of higher education;

c. upon notification in writing that the Beneficiary has completed his educational program and does not plan to pursue further education.

3. Refunds made under the provisions of §311.G shall be equal to the Redemption Value of the Education Savings Account at the time of the refund minus 10 percent of accumulated interest earned on principal deposits which has not been expended for Qualified Higher Education Expenses, and shall be made to the person designated in the Depositor's Agreement.

H. Effective Date of Account Termination. Account termination shall be effective at midnight on the last day of the calendar quarter in which the request for account termination is received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

I. Frequency of Refund Payments. Payment of refunds shall be made on or about the forty-fifth day of the calendar quarter following the quarter in which the account was terminated. Upon receipt of a request for an Emergency Refund [See ' 107], the LATTA will verify the emergency and notify the Account Owner in writing that a refund of all principal deposited in an Education Savings Account will be

made within 10 days of the close of the calendar quarter in which the request for refund was received. The refund of all interest earned on the principal, accrued through the end of the calendar quarter, will be refunded as soon as possible thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:

§313. Substitution, Assignment, and Transfer

A. Substitute Beneficiary. The Beneficiary of an Education Assistance Account may be changed to a substitute Beneficiary provided the Account Owner completes a Beneficiary Substitution form and the following requirements are met:

1. the substitute Beneficiary is a Family Member as defined under §107.

2. the substitute Beneficiary meets the citizen/resident alien requirements of §301.F, and if the Account Owner is a nonresident of the state of Louisiana, the substitute Beneficiary meets the applicable residency requirements [see §301.G];

3. if the original Beneficiary is an Independent Student [see §107], meaning he is also the Account Owner of the account, the substitute Beneficiary must be the spouse or child of the Account Owner.

B. Assignment or Transfer of Account Ownership. The ownership of an Education Savings Account, and all interest, rights and benefits associated with such, are nontransferable.

C. Changes to the Depositor's Agreement

1. The Account Owner may request changes to the Depositor's Agreement.

2. Changes must be requested in writing and be signed by the Account Owner.

3. Changes which are accepted will take effect as of the date the notice is received by the LATTA.

4. The LATTA shall not be liable for acting upon inaccurate or invalid data which was submitted by the Account Owner.

5. The Account Owner will be notified by the LATTA in writing of any changes affecting the Depositor's Agreement which result from changes in applicable federal and state statutes and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), repromulgated LR 26:

§315. Miscellaneous Provisions

A. Account Statements and Reports

1. The LATTA will forward to each Account Owner an annual statement of account which itemizes the:

a. date and amount of deposits and interest earned during the prior year;

b. total principal and interest accrued to the statement date; and

c. total Tuition Assistance Grants and interest allocated to the account as of the statement date.

2. Tuition Assistance Grants shall be allocated annually and reported after July 1, following the Account Owners' required disclosure of their prior years' reported federal adjusted gross income.

3. The Account Owner must report errors on the annual statement of account to the LATTA within 60 days from the date on the account statement or the statement will be deemed correct.

B. Tuition Assistance Grants. Tuition Assistance Grants shall be allocated annually and reported to Account Owners by a separate letter of notification after July 1st, following the Account Owners' compliance with Section 307B of these regulations.

C. Earned Interest

1. Interest earned on principal deposits during a calendar year will be credited to accounts and reported to Account Owners after the conclusion of the calendar year in which the interest was earned.

2. The rate of interest earned shall be the rate of return earned on the Fund as reported by the state treasurer and approved by the LATTA.

D. Refunded Amounts

1. Interest earned on an Education Savings Account which is refunded to the Account Owner or Beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year of the refund, the LATTA will furnish the State Department of Revenue, the Internal Revenue Service and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form is appropriate according to applicable tax codes.

E. Maximum Allowable Account Balance Report

1. The Account Owner of an Education Savings Account will be notified, in writing, of the Maximum Allowable Account Balance.

2. The Maximum Allowable Account Balance is based on the cost of Qualified Higher Education Expenses for the Eligible Educational Institution designated on the Depositors' Agreement, projected to the date of the Beneficiary's Scheduled Date of First Enrollment.

3. If no Eligible Educational Institution was designated on the Depositors' Agreement, the Maximum Allowable Account Balance will be projected based upon the highest cost in-state eligible public educational institution.

4. If the Account Owner changes the institution designated on the Depositors' Agreement, a revised Maximum Allowable Account Balance will be calculated and the Account Owner will be notified of any change.

5. The Maximum Allowable Account Balance is revised and reported to Account Owners annually, and is based upon changes in the cost projections for Qualified Higher Education Expenses.

F. Rule Changes. The LATTA reserves the right to amend the rules regulating the START Program's policies and procedures; however, any amendments to rules affecting participants will be published in accordance with the Administrative Procedure Act and distributed to Account Owners for public comment prior to the adoption of final rules.

G. Determination of Facts. The LATTA shall have sole discretion in making a determination of fact regarding the application of these rules.

H. Individual Accounts. The LATTA will maintain an individual account for each Beneficiary, showing the Redemption Value of the account.

I. Confidentiality of Records. All records of the LATTA identifying Account Owners and designated beneficiaries of Education Savings Accounts, amounts deposited, expended or refunded, are confidential and are not public records.

J. No Investment Direction. No Account Owner or Beneficiary of an Education Savings Account may direct the investment of funds credited to an account.

K. No Pledging of Interest as Security. No interest in an Education Savings Account may be pledged as security for a loan.

L. Excess Funds

1. Principal deposits to an Education Savings Account are no longer accepted once the account total reaches the Maximum Allowable Account Balance [see §305.C]; however, the principal and interest earned thereon may continue to earn interest and any Tuition Assistance Grants allocated to the account may continue to accrue interest.

2. Funds in excess of the Maximum Allowable Account Balance may remain in the account and continue to accrue interest and may be expended to an Eligible Educational Institution in accordance with §309, or upon termination of the account, will be refunded in accordance with §311.

M. Withdrawal of Funds. Funds may not be withdrawn from an Education Savings Account except as set forth in §309 and §311.

N. NSF Procedure

1. A check received for deposit to an Education Savings Account which is returned due to insufficient funds in the depositor's account on which the check is drawn, will be redeposited and processed a second time by the START Program's financial institution.

2. If the check is returned due to insufficient funds a second time, the check will be returned to the depositor.

O. Effect of a Change in Residency

1. On the date an account is opened, either the Account Owner or Beneficiary must be a resident of the state of Louisiana [see §301.G]; however, if the Account Owner or Beneficiary, or both, temporarily or permanently move to another state after the account is opened, they may continue participation in the program in accordance with the terms of the Depositors' Agreement.

2. The Account Owner may elect to terminate the account or request a "rollover" of account funds to a qualified state Tuition program in the new state of residence. Only the principal deposited, and interest earned thereon, may be "rolled over."

3. Tuition Assistance Grants allocated to an Education Assistance Account are not transferrable nor refundable.

P. Effect on Other Financial Aid. Participation in the START Program does not disqualify a student from participating in other federal, state or private student financial aid programs; however, depending upon the regulations which govern these other programs at the time of enrollment, the Beneficiary may experience reduced eligibility for aid from these programs.

Q. Change in Projected School of Enrollment

1. The Account Owner may redesignate the Beneficiary's projected school of enrollment, but not more than once annually.

2. If the change in school results in a change in the account's fully funded or Maximum Allowable Account Balance, the Account Owner will be notified.

R. Abandoned Accounts. Abandoned accounts will be defined and treated in accordance with R.S. 9:151 et seq., as amended, the Louisiana Uniform Unclaimed Property Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:

Mark S. Riley
Assistant Executive Director

0007#095

DECLARATION OF EMERGENCY
Student Financial Assistance Commission
Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
High School Grade Point Average Calculator
(LAC 28:IV.301, 703, 803, 903, 1703)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (R.S. 17:3042.1 and R.S. 17:3048.1).

The Emergency Rules are necessary to implement changes to the TOPS rules to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these Emergency Rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective June 1, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28
EDUCATION

Part IV. Student Financial Assistance Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

* * *

Cumulative High School Grade Point Average the final cumulative high school grade point average calculated on a 4.00 scale for all courses attempted, including each course that is repeated. Effective for high school graduates beginning with the Academic Year (High School) 2002-2003, the Cumulative High School Grade Point Average shall be calculated by using only the course grades achieved for those courses included in the core curriculum.. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the

Cumulative High School Grade Point Average shall be calculated by using the course in each core curriculum category for which the student received the highest grade. For example, if a student has taken more than one Advanced Mathematics course, the Cumulative Grade Point Average shall be determined by using only the course in which the student has received the highest grade. In the event a student takes the same core course more than one time, the Cumulative High School Grade Point Average shall be calculated using the average of the grades earned in each repeated course. For example, a student who earns an F in Algebra I and who earns a B by repeating the course would add 0 for the F to 3 for the B and divide by two, resulting in a 1.5 grade for calculating the Cumulative Grade Point Average.

For those high schools that utilize other than a 4.00 scale, all grade values must be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X \text{ (Converted Quality Points)}}{4.00 \text{ (Maximum Scale)}}$$

For schools awarding a maximum of 5 points for honors courses, the formula would be used to convert the honors course grade of AC as shown in the following example.

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying, $5X = 12; X = 2.40$
Quality points = Credit for course multiplied by the value assigned to the letter grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 (August 1999), LR 25:1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards

§703. Establishing Eligibility

A. - A.9. ...

B. Students qualifying under ' 703.A.5.a and b, must have attained a cumulative high school grade point average based on a 4.00 maximum scale, for all courses attempted of at least:

1. a 2.50 for the Opportunity Award; or
2. a 3.50 for the Performance of Honors Awards.

C. - G.1.b. ...

c. The college courses taken to satisfy core curriculum requirements and the grades reported on those courses are reflected in the student's official high school records. The student is awarded a high school diploma and the grade point average and core curriculum are certified to LASFAC by the high school in the same manner as that of other high school graduates.

G.1.d. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:67 (January 2000), LR 26:689 (April 2000), LR 26:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-TECH Award, the student applicant must meet the following criteria:

1. - 7. ...

8. if qualifying under §703.A.5.a, have attained a cumulative high school grade point average, based on a 4.00 maximum scale, for all courses attempted of at least 2.50; and

9. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:67 (January 2000), LR 26:

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

A. - A.4.a.ii. ...

iii. graduate with a cumulative high school grade point average of at least a 3.25, calculated on a 4.00 scale, for all courses attempted; or

A.4.b. - A.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 23:1650 (December 1997), repromulgated LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1703. High School-s Certification of Student Achievement

A. - B.2.e. ...

3. The responsible high school authority shall certify to LASFAC the final cumulative high school grade point average of each applicant and that average shall be inclusive of grades for all courses attempted and shall be computed and reported on a maximum 4.00 grading scale.

B.3.a. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17:959 (October 1991), amended LR 22:338 (May 1996), repromulgated LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:

Jack L. Guinn
Executive Director

0007#094

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Environmental Assessment

Environmental Planning Division
Privately Owned Sewage Treatments
(LAC 33:IX.2331, 2381, 2383, 2385,
2769 and 2801-2809)(WP035E3)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under authority of R.S. 30:2011, the Secretary of the Department of Environmental Quality declares that an emergency action is necessary as a result of Act 399 of the 1999 Legislative Session, which required all privately-owned sewage treatment facilities, regulated by the Public Service Commission, to obtain financial security prior to receiving discharge authorization. This Act applies to any issuance, renewal, modification, or transfer of such permits after July 1, 1999, and mandates that the department establish by rule the acceptable forms of financial security and the amount of financial security required for the various types and sizes of facilities. Therefore, after July 1, 1999, and until the necessary rule is in effect, the department would be required to withhold all new discharge permits, renewal of existing, modification of existing, and transfers of existing discharge permits to all privately-owned, for-profit community sewage treatment facilities.

This is a renewal of Emergency Rule WP035E2, which was effective February 26, 2000, and published in the *Louisiana Register* on March 20, 2000. The text of the February 26, 2000 rule remains the same with the exception of the addition of provisions for a waiver or exemption in LAC 33:IX.2331.P, 2381.B.4, 2383.C and 2385.A.4. The original emergency rule WPO35E was effective July 1, 1999.

The delays inherent in the normal rulemaking process would imperil public health, safety, and welfare by precluding the legal operation of some sewage treatment facilities subject to Act 399. The legal operation of those sewage treatment facilities is essential for the proper treatment of sewage, necessary to reduce disease-causing microorganisms and pollutants that are harmful to fish and other aquatic life. The cessation of operation of such a treatment facility, as would be required by law, would necessitate either bypassing the treatment facility (resulting in the discharge of untreated sewage) or blocking all flow of sewage through the collection system (rendering uninhabitable every building served by that system). The Department cannot ensure protection of public health, welfare, and the environment without the issuance of discharge permits with proper effluent limitations and monitoring requirements.

The immediate impact of this rule is to give effect to the terms and conditions of Act 399, thus allowing the Department to continue regulating treated sanitary discharges from private treatment facilities which serve large segments of Louisiana's population.

This emergency rule is effective June 26, 2000, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever comes first. For more information concerning WP035E3, you may contact the

Regulation Development Section at (225) 765-0399. Adopted this 26th day of June, 2000.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program
Subchapter B. Permit Application and Special LPDES Program Requirements

§2331. Application for a Permit

* * *

[See Prior Text in A - O. Editorial Note]

P. Additional Requirements for Privately-Owned Sewage Treatment Facilities Regulated by the Public Service Commission. Privately-owned sewage treatment facilities regulated by the Public Service Commission must also comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W. Following receipt of the permit application the administrative authority shall calculate and subsequently notify the applicant of the "waste discharge capacity per day" for the facility. The applicant will use this figure to determine the amount of the financial security required by LAC 33:IX.Chapter 23.Subchapter W. The applicant shall subsequently obtain and supply the department with the financial security document in accordance with LAC 33:IX.Chapter 23.Subchapter W. No permit shall be issued after July 1, 1999, without the required financial security, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination

§2381. Transfer of Permits

* * *

[See Prior Text in A - B.1]

2. the notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them;

3. the state administrative authority does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this Subsection may also be a minor modification under LAC 33:IX.2385. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in LAC 33:IX.2381.B.2; and

4. additional requirements are met for privately-owned sewage treatment facilities regulated by the Public Service Commission when transferred after July 1, 1999. The new permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2383. Modification or Revocation and Reissuance of Permits

* * *

[See Prior Text in A - B.2]

C. Upon modification or revocation and reissuance of a permit for a privately-owned sewage treatment facility regulated by the Public Service Commission, the permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2385. Minor Modifications of Permits

A. Upon the consent of the permittee, the state administrative authority may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this Section, without following the procedures of LAC 33:IX.Chapter 23.Subchapters E- G. Any permit modification not processed as a minor modification under this Section must be made for cause and with LAC 33:IX.Chapter 23.Subchapters E- G draft permit and public notice as required in LAC 33:IX.2383. Minor modifications may only:

1. correct typographical errors;
2. require more frequent monitoring or reporting by the permittee;
3. change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or
4. allow for a change in ownership or operational control of a facility where the state administrative authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the state administrative authority. The new permittee of a privately-owned sewage treatment facility regulated by the Public Service Commission must additionally comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

* * *

[See Prior Text in A. 5 - 7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945

(September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter V. Additional Requirements Applicable to the LPDES Program

§2769. Additional Requirements for Permit Renewal and Termination

A. The following are causes, in addition to those found in LAC 33:IX.2387, for terminating a permit during its term or for denying a permit renewal:

* * *

[See Prior Text in A.1]

2. due consideration of the facility's history of violations and compliance;

3. change of ownership or operational control (see LAC 33:IX.2381); and/or

4. failure to provide or maintain financial security in accordance with LAC 33:IX.Chapter 23.Subchapter W.

* * *

[See Prior Text in B - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:726 (June 1997), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter W. Financial Security

§2801. Applicability

A. This Subsection shall be applicable to the following actions, for privately-owned sewage treatment facilities regulated by the Public Service Commission, when taken after July 1, 1999:

1. issuance of a new discharge permit;
2. renewal of an existing discharge permit;
3. modification of an existing discharge permit; and
4. transfer of an existing discharge permit to a different permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2803. Acceptable Form of Financial Security

A. Financial security required by R.S. 30:2075.2 may be established by any one or a combination of the following mechanisms.

1. Surety Bond. The requirements of this Section may be satisfied by obtaining a surety bond that conforms to the following requirements:

a. the bond must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Management and Finance, Financial Services, Box 82231, Baton Rouge, LA 70884-2231;

b. the bond must be executed by the permittee and a corporate surety licensed to do business in Louisiana. The surety must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and be approved by the administrative authority;

c. under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond;

d. under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the administrative authority at the address indicated in Subsection A.1.a of this Section. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts; and

e. the wording of the surety bond must be identical to the following, except that material in brackets is to be replaced with the relevant information and the brackets deleted:

PERFORMANCE BOND

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility permit number, facility address, amount for each facility guaranteed by this bond]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us and, for all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq., to have a permit in order to discharge wastewater from the facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for the conditions specified in LAC 33:IX.Chapter 23.Subchapter W, as a condition of the permit; and

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform, in a timely manner, the requirements of LAC 33:IX applicable to the facility for which this bond guarantees the requirements of LAC 33:IX, in accordance with the other requirements of the permit as such permit may be amended and pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide other financial assurance as specified in LAC 33:IX.Chapter 23.Subchapter W and obtain written approval of the administrative authority of such assurance within 90 days after the date of notice of cancellation of this bond is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise, it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the requirements of LAC 33:IX or of its permit, for the facility for which this bond guarantees performances of the requirements of LAC 33:IX.Chapter 23.Subchapter W, the Surety shall either perform the requirements of LAC 33:IX.Chapter 23.Subchapter W, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to permit, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in

no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed, beginning on the date that both the Principal and the administrative authority received the notice of cancellation as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:IX.2803.A.1, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]

CORPORATE SURETY

[Name and address]
State of incorporation: _____
Liability limit: \$ _____

[Signature(s)]
[Name(s) and title(s)]

[For every cosurety, provide signature(s) and other information in the same manner as for Surety above.]

Bond premium: \$ _____

2. Letter of Credit. The requirements of this Section may be satisfied by obtaining a letter of credit that conforms to the following requirements:

a. the letter of credit must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Management and Finance, Financial Services, Box 82231, Baton Rouge, LA 70884-2231;

b. the issuing institution must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency;

c. the letter of credit must be irrevocable and issued for a period of at least one year, unless at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority at the address indicated in Subsection A.2.a of this Section by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts; and

d. the wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Financial Services
Post Office Box 82231
Baton Rouge, Louisiana 70884-2231
Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in favor of the Department of Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the conditions specified in LAC 33:IX.Chapter 23.Subchapter W for its [list site identification number, site name, facility name, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars \$ _____ upon presentation of:

(1). A sight draft, bearing reference to the Letter of Credit No. _____ drawn by the administrative authority, together with;

(2). A statement, signed by the administrative authority, declaring that the amount of the draft is payable pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001, et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the Uniform Customs and Practice for Documentary Letters of Credit (1983), International Chamber of Commerce Publication No. 400, shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:IX.2803.A.2, effective on the date shown immediately below.

[Signature(s) and title(s) of
official(s) of issuing
institution(s)]
[date]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2805. Amount of Required Financial Security

A. The amount of the financial security must be equal to or greater than \$1 per gallon of wastewater discharge per day from the facility, as determined by the administrative authority, up to a maximum of \$25,000.

B. The secretary may, in his discretion, allow a single financial security instrument to satisfy the requirements of this Subchapter for up to four permits held by the same permittee, if the amount of financial security provided by that instrument is large enough to satisfy the requirements of Subsection A of this Section for the facility with the greatest amount of wastewater discharge per day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2807. Conditions for Forfeiture

A. The secretary or his designee may enter an order requiring forfeiture of all or part of the financial security, if he determines that:

1. the continued operation or lack of operation and maintenance of the facility covered by this Subsection represents a threat to public health, welfare, or the

environment because the permittee is unable or unwilling to adequately operate and maintain the facility or the facility has been actually or effectively abandoned by the permittee. Evidence justifying such determination includes, but is not limited to:

- a. the discharge of pollutants exceeding limitations imposed by applicable permits;
 - b. failure to utilize or maintain adequate disinfection facilities;
 - c. failure to correct overflows or backups from the collection system;
 - d. a declaration of a public health emergency by the state health officer; and
 - e. a determination by the Public Service Commission that the permittee is financially unable to properly operate or maintain the system;
2. reasonable and practical efforts under the circumstances have been made to obtain corrective actions from the permittee; and
3. it does not appear that corrective actions can or will be taken within an appropriate time as determined by the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2 and 3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2809. Use of Proceeds

A. The proceeds of any forfeiture shall be used by the secretary, or by any receiver appointed by a court under R.S. 30:2075.3, to address or correct the deficiencies at the facility or to maintain and operate the system, as deemed necessary by the secretary under LAC 33:IX.2807.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and in particular Sections 2074(B)(3) and(4) and 2075.2 and 3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

J. Dale Givens
Secretary

0007#003

DECLARATION OF EMERGENCY

**Department of Environmental Quality
Office of the Secretary**

**Beneficial Environmental Projects (BEPs)
(LAC 33:I.2501-2505)(OS037E1)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under authority of R.S. 30:2011, the secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary to ensure efficient enforcement of the environmental laws of this state. Beneficial environmental projects (BEPs) have been proposed which will substantially benefit neighboring communities and reduce the load of pollutants discharged into the environment.

This is a renewal of Emergency Rule OS037E, which was effective March 10, 2000, and published in the *Louisiana Register* on March 20, 2000. Rulemaking procedures have begun to promulgate this regulation, Log #OS037.

This rule will serve to facilitate the settlement of environmental actions and promote the use of BEPs. Without this rule, projects that are otherwise advantageous to the state may be delayed, withdrawn, or not performed.

This emergency rule is effective on July 8, 2000, and shall remain in effect for the maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS037E1, you may contact DEQ's Regulation Development Section at (225) 765-0399. Adopted this 7th day of July, 2000.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Department Administrative Procedures

Chapter 25. Beneficial Environmental Projects

§2501. Applicability

A. These regulations apply when the department has decided to enter into a settlement in which a beneficial environmental project (BEP) is utilized. The department reserves the right to settle for the amount of cash penalty, if any, it deems appropriate in considering all of the circumstances relating to the case in which the settlement is perfected. The decision to enter into a settlement that includes a BEP is solely within the discretion of the department. Nothing in these regulations requires that the department enter into a settlement or that the settlement include BEPs. Any BEP may be accepted if it meets the terms of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031, and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2503. Definitions

Beneficial Environmental Project (BEP)—a project that provides for environmental mitigation which the defendant/respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of a settlement of a violation(s) or penalty assessment.

Environmental Mitigation—that which tends to lead in any way to the protection from, reduction of, or general awareness of potential risks or harm to public health and the environment. Environmental mitigation includes any and all projects that conform to the requirements set forth in LAC 33:I.2505.

Not Otherwise Legally Required to Perform—the approved project is not required of the defendant/respondent by any federal, state, or local law, regulation, or permit (except that early compliance may be allowed) or actions which the defendant/respondent may be required to perform as injunctive relief in the instant case or as part of a settlement or order in another action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031 and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2505. Project Categories

A. A BEP must be within one or more of the following categories.

1. Public Health. A public health project provides diagnostic, preventative, and/or remedial components of human health care that is related to the actual or potential damage to human health caused by a violation of environmental law or mismanagement of substances containing constituents detrimental to human health. This may include, but is not limited to, epidemiological data collection and analysis, medical examinations of potentially affected persons, collection and analysis of blood/fluid/tissue samples, medical treatment, and rehabilitation therapy.

2. Pollution Prevention

a. A pollution prevention project is one that reduces the generation of pollution through "source reduction," i.e., any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise being released into the environment, prior to recycling, treatment, or disposal. (After the pollutant or waste stream has been generated, pollution prevention is no longer possible and the waste must be handled by appropriate recycling, treatment, containment, or disposal methods.)

b. Source reduction may include equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, inventory control, or other operation and maintenance procedures. Pollution prevention also includes any project which protects natural resources through conservation or increased efficiency in the use of energy, water, or other materials. In-process recycling, wherein waste materials produced during a manufacturing process are returned directly to production as raw materials on site, is considered a pollution prevention project.

c. In all cases, for a project to meet the definition of pollution prevention, there must be an overall decrease in the amount and/or toxicity of pollution released to the environment, not merely a transfer of pollution among media. This decrease may be achieved directly or through increased efficiency (conservation) in the use of energy, water, or other materials.

3. Pollution Reduction. If the pollutant or waste stream already has been generated or released, a pollution reduction approach, which employs recycling, treatment, containment, or disposal techniques, may be appropriate. A pollution reduction project is one that results in a decrease in the amount and/or toxicity of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise being released into the environment by an operating business or facility by a means which does not qualify as "pollution prevention." This may include the installation of more effective end-of-process control or treatment technology, or improved containment, or safer disposal of an existing pollutant source. Pollution reduction also includes "out-of-process recycling," wherein industrial waste collected after the manufacturing process and/or consumer waste materials are used as raw materials for production off-site.

4. Environmental Restoration and Protection. An environmental restoration and protection project is one that

goes beyond repairing the damage caused by the violation to enhance the condition of any ecosystem or geographic area. These projects may be used to restore or protect natural environments (including ecosystems) and man-made environments (including the removal/mitigation of contaminated materials, such as soils, asbestos, and leaded paint, from facilities and buildings). Also included is any project which protects the ecosystem from actual or potential damage resulting from violations of state environmental regulations or improves the overall environmental condition of the ecosystem or geographic area. Examples of these projects include: restoration of a wetland; purchase and management of a watershed area or environmentally sensitive area; and providing for the protection of endangered species, i.e. developing conservation programs or habitat protection and enhancement.

5. Assessments and Audits

a. The four types of assessments/audits are:

- i. pollution prevention assessments;
- ii. site assessments;
- iii. environmental management system audits; and
- iv. compliance audits.

b. These assessment or audit projects must be performed by an entity approved by the department. The defendant/respondent must agree to provide a certified copy of the assessment or audit to the department along with an implementation report to detail the action(s) taken and/or to defend the facility's decision to forego implementation of the suggested changes listed in the audit report. Settlement agreements which include assessment and/or audit projects may be constructed with stipulated penalty amounts for failure to implement suggested changes included in the report that the department deems appropriate based on an assessment of the certified implementation report provided by the facility. Assessments and audits may not include projects that are required by enforcement and/or legal requirements.

6. Environmental Compliance Promotion. An environmental compliance promotion project provides training or technical support to identify, achieve and maintain compliance with applicable statutory and regulatory requirements; avoid committing a violation with respect to such statutory and regulatory requirements; go beyond compliance by reducing the generation, release, or disposal of pollutants to a level below the legally required limits; or promote environmental education, including awareness of potential risks or harm to the public health and the environment. In all cases, the department will specify the approved party responsible for developing and providing the environmental compliance promotion project. Acceptable projects may include, but are not limited to, the production and/or sponsorship of seminar(s) related to environmental obligations, regulations, and improvement techniques.

7. Emergency Planning, Preparedness, and Response. An emergency planning and preparedness project provides assistance to a responsible state or local emergency planning, preparedness, or response entity. This is to enable these organizations to further fulfill their obligations to collect information to assess the dangers of hazardous chemicals present in a response situation, to develop emergency plans and/or procedures, to train emergency response personnel, and to better respond to emergency

situations. These projects may include providing computers and software, communication systems, chemical emission detection and inactivation equipment, or hazardous materials equipment or training.

8. Other Projects. Projects determined by the department to have environmental merit that do not fit within at least one of the seven categories above may be accepted if they are otherwise fully consistent with the intent of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031 and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

J. Dale Givens
Secretary

0007#074

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees
Group Benefits Program**

EPO Plan of Benefits CPrescription Drug Benefits
(LAC 32:V.325)

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the Emergency Rule provisions of R. S. 49:953(B).

The board finds that it is necessary to amend the EPO Plan Document regarding dispensing limits and co-payments for maintenance drugs. Failure to adopt this rule on an emergency basis will result in a substantial fiscal impact on the plan which may affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule is effective July 8, 2000 and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first, revising and amending the EPO Plan of Benefits in the following particulars.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§325. Prescription Drug Benefits

A. - B. ...

C. Outpatient prescription drug benefits are adjudicated by a third-party prescription benefits manager with whom the program has contracted. In addition to all provisions, exclusions and limitations relative to prescription drugs set forth elsewhere in this plan document, the following apply to expenses incurred for outpatient prescription drugs.

1. - 4. ...

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

a. up to a 34-day supply of acute drugs may be dispensed at one time;

b. up to a 90-day supply of maintenance drugs may be dispensed at one time, provided that:

i. a separate co-payment shall be due and payable for each 34-day supply, or portion thereof; and

ii. drugs prescribed for treatment of diabetes together with over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs, shall be considered as one prescription for the purposes of this section; and

c. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), amended LR 26:

A. Kip Wall
Chief Executive Officer

0007#067

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees
Group Benefits Program**

PPO Plan of Benefits CPrescription Drug Benefits
(LAC 32:III.325)

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the Emergency Rule provisions of R.S. 49:953(B).

The board finds that it is necessary to amend the PPO Plan Document regarding dispensing limits and co-payments for maintenance drugs. Failure to adopt this rule on an emergency basis will result in a substantial fiscal impact on the plan which may affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule is effective July 8, 2000 and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first, revising and amending the PPO Plan of Benefits in the following particulars.

Title 32
EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits
Chapter 3. Medical Benefits

§325. Prescription Drug Benefits

A. - B. ...

C. Outpatient prescription drug benefits are adjudicated by a third-party prescription benefits manager with whom the program has contracted. In addition to all provisions, exclusions and limitations relative to prescription drugs set forth elsewhere in this plan document, the following apply to expenses incurred for outpatient prescription drugs.

1. - 4. ...

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

a. up to a 34-day supply of acute drugs may be dispensed at one time;

b. up to a 90-day supply of maintenance drugs may be dispensed at one time, provided that:

i. a separate co-payment shall be due and payable for each 34-day supply, or portion thereof; and

ii. drugs prescribed for treatment of diabetes together with over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs, shall be considered as one prescription for the purposes of this section; and

c. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), amended LR 26:

A. Kip Wall
Chief Executive Officer

0007#068

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Program
and Augmentative and Alternative Communication (AAC) Devices

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

The Department of Health and Hospitals, Bureau of Health Service Financing currently provides coverage for durable medical equipment under the Medicaid program. All medical equipment, appliances and supplies must be prior authorized in order to determine medical necessity. Currently, augmentative and alternative communication devices are prior authorized for rental or purchase under the

durable medical equipment program according to specific criteria set forth in the *Medicaid Eligibility Manual*. However, only recipients under the age of 21 are eligible to receive these devices (*Louisiana Register*, Volume 22, No. 5). The department determined that it was necessary to amend the May 20, 1996 rule regarding prior authorization of augmentative communication devices by removing the age restriction for provision of these devices to Medicaid by recipients, and expanding the criteria for prior authorization of these devices (*Louisiana Register*, Volume 25, No. 6). This Emergency Rule is being adopted in order to continue the provisions of the October 2, 1999 rule in force.

Emergency Rule

Effective June 15, 2000, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing removes the age restriction for the provision of augmentative and alternative communication devices to Medicaid recipients and expands the criteria for prior authorization of these devices under the Durable Medical Equipment Program.

I. Definitions

Augmentative and Alternative Communications (AAC) Devices Electronic or non-electronic aids, devices, or systems that assist a Medicaid recipient to overcome or ameliorate (reduce to the maximum degree possible) the communication limitations that preclude or interfere with meaningful participation in current and projected medically necessary daily activities. Examples of AAC devices include:

1. communication boards or books, speech amplifiers, and electronic devices that produce speech and/or written output;

2. devices that are constructed for use as communication devices as well as systems that may include a computer, when the primary use of the computer serves as the recipient's communication device; and

3. related components and accessories, including software programs, symbol sets, overlays, mounting devices, switches, cables and connectors, auditory, visual, and tactile output devices, printers, and necessary supplies, such as rechargeable batteries.

Meaningful Participation Effective and efficient communication of messages in any form the recipient chooses.

Speech-Language Pathologist Can individual who has:

1. been licensed by the Louisiana Board of Examiners for Speech Pathologists and Audiologists;

2. a Certificate of Clinical Competence in speech language pathology from the American Speech-Language-Hearing Association;

3. completed the equivalent educational requirements and work experience necessary for the certificate; or

4. completed the academic program and is acquiring supervised work experience to qualify for the certificate.

II. Recipient Criteria

Consideration shall be given for Medicaid reimbursement of AAC devices if the device is considered medically necessary, the recipient has the ability to physically and mentally use a device and its accessories, and if the following criteria is met.

A. Medical Necessity Determinations

1. The following medically necessary conditions shall be established for recipients who/whose:

a. have a diagnosis of a significant expressive or receptive (language comprehension) communication impairment or disability;

b. impairment or disability either temporarily or permanently causes communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities; and

c. had a speech-language pathologist (and other health professional, as appropriate):

i. perform an assessment and submit a report pursuant to the criteria set forth in sub-section B. Assessment/Evaluation; and

ii. recommend speech-language pathology treatment in the form of AAC devices and services; and

iii. document the mental and physical ability of a recipient to use, or learn to use, a recommended AAC device and accessories for effective and efficient communication; and

iv. prepare a speech-language pathology treatment plan that describes the specific components of the AAC devices and the required amount, duration, and scope of the AAC services that will overcome or ameliorate communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities; and

d. requested AAC devices constitute the least costly, equally effective form of treatment that will overcome or ameliorate communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities.

2. The following are additional general principles relating to medical necessity determinations for AAC devices.

a. No cognitive, language, literacy, prior treatment, or other similar prerequisites must be satisfied by a recipient in advance of a request for AAC devices.

b. The unavailability of an AAC device, component, or accessory for rental will not serve as the basis for denying a prior approval request for that device, component, or accessory.

c. The cause of the recipient's impairment or disability (e.g., congenital, developmental, or acquired), or the recipient's age at the onset of the impairment or disability, are irrelevant considerations in the determination of medical need.

d. Recipient participation in other services or programs (e.g., school, early intervention services, adult services programs, employment) is irrelevant to medical necessity determination for AAC devices.

B. Assessment/Evaluation

1. An assessment, or evaluation, of the individual's functioning and communication limitations that preclude or interfere with meaningful participation in current and projected daily activities must be completed by a speech-language pathologist with input from other health professionals, (e.g., occupational therapists and rehabilitation engineers) based on the recommendation of the speech language pathologist and a physician's prescription, as appropriate. Reimbursement for

assessments or evaluations for ACC devices is covered by the Medicaid program.

2. Requests for AAC devices must include a description of the speech-language pathologist's qualifications, including a description of the speech-language pathologist's AAC services training and experience.

3. An assessment (augmentative & alternative communication evaluation) must include the following information about the recipient:

a. identifying information:

i. name;

ii. Medicaid identification number;

iii. date of the assessment;

iv. medical and neurological diagnoses (primary, secondary, tertiary);

v. significant medical history;

vi. mental or cognitive status; and

vii. educational level and goals;

b. sensory status:

i. vision and hearing screening (no more than one year prior to AAC evaluation);

ii. if vision screening is failed, a complete vision evaluation;

iii. if hearing screening is failed, a complete hearing evaluation;

iv. description of how vision, hearing, tactile, and/or receptive communication impairments or disabilities affect expressive communication;

c. postural, mobility, and motor status:

i. gross motor assessment;

ii. fine motor assessment;

iii. optimal positioning;

iv. integration of mobility with AAC devices;

v. recipient's access methods (and options) for AAC devices;

d. current speech, language, and expressive communication status:

i. identification and description of the recipient's expressive or receptive (language comprehension) communication impairment diagnosis;

ii. speech skills and prognosis;

iii. language skills and prognosis;

iv. communication behaviors and interaction skills (i.e., styles and patterns);

v. functional communication assessment, including ecological inventory;

vi. indication of past treatment, if any;

vii. description of current communication strategies, including use of an AAC device, if any;

Note: If an AAC device is currently used, describe the device, when and by whom it was previously purchased, and why it is no longer adequate to meet the recipient's communication needs.

e. communication needs inventory:

i. description of recipient's current and projected communication needs;

ii. communication partners and tasks including partners' communication abilities limitations, if any; and

iii. communication environments and constraints which affect AAC device selection and/or features (e.g., verbal and/or visual output and/or feedback; distance communication needs);

- f. summary of communication limitations.
 - i. description of the communication limitations that preclude or interfere with meaningful participation in current and projected daily activities (i.e., why the recipient's current communication skills and behaviors prevent meaningful participation in the recipient's current and projected daily activities);
 - g. AAC devices assessment components:
 - i. vocabulary requirements;
 - ii. representational system(s);
 - iii. display organization and features;
 - iv. rate enhancement techniques ;
 - v. message characteristics, speech synthesis, printed output, display characteristics, feedback, auditory and visual output;
 - vi. access techniques and strategies; and
 - vii. portability and durability concerns, if any;
 - h. identification of AAC devices considered for recipients:
 - i. identification of the significant characteristics and features of the AAC devices considered for the recipient; and
 - ii. identification of the cost of the AAC devices considered for the recipient (including all required components, accessories, peripherals, and supplies, as appropriate);
 - i. AAC device recommendation:
 - i. identification of the requested AAC devices including all required components, accessories, software, peripheral devices, supplies, and the device vendor;
 - ii. identification of the recipient's and communication partner's AAC devices preference, if any;
 - iii. assessment of the recipient's ability (physically and mentally) to use, or to learn to use, the recommended AAC device and accessories for effective and efficient communication;
 - iv. justification stating why the recommended AAC device (including description of the significant characteristics, features, and accessories) is better able to overcome or ameliorate the communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities, as compared to the other AAC devices considered;
 - v. justification stating why the recommended AAC device (including description of the significant characteristics, features, and accessories) is the least costly, equally effective, alternative form of treatment to overcome or ameliorate the communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities;
 - j. treatment plan and follow-up:
 - i. description of short term communication goals (e.g., 6 months);
 - ii. description of long term communication goals (e.g., 1 year);
 - iii. assessment criteria to measure recipient's progress toward achieving short and long term communication goals;
 - iv. description of amount, duration, and scope of AAC services required for the recipient to achieve short and long term communication goals; and

- v. identification and experience of AAC service provider responsible for training (these service providers may include, e.g.: speech-language pathologists, occupational therapists, rehabilitation engineers, the recipient's parents, teachers and other service providers);
- k. summary of alternative funding source for AAC device:
 - i. description of availability or lack of availability, of purchase of AAC device through other funding sources.

C. Trial Use Periods

1. In instances where the appropriateness of a specific AAC device is not clear, a trial use period for an AAC device may be recommended (although it is not required) by the speech-language pathologist who conducted the AAC evaluation.
2. Prior authorization for rental of AAC devices shall be approved for trial use periods when the speech-language pathologist prepares a request consistent with the established requirements. The reasons for a trial use period request include, but are not limited to:
 - a. the characteristics of the recipient's communication limitations;
 - b. lack of familiarity with a specific AAC device; and
 - c. whether there are sufficient AAC services to support the recipient's use of the AAC device, or other factors.
3. If the speech-language pathologist recommends a trial use period, he/she must prepare a request that includes the following information:
 - a. the duration of the trial period;
 - b. the speech-language pathologist information and the recipient information as required in Section II.B;
 - c. examination of the AAC device during the trial period, including all the necessary components (e.g., mounting device, software, switches, or access control mechanism);
 - d. the identification of the AAC service provider(s) who will assist the recipient during the trial period;
 - e. the identification of the AAC services provider(s) who will assess the trial period; and
 - f. the evaluation criteria, specific to the recipient, that will be used to determine the success or failure of the trial period.
4. Trial use period requests must request the rental of all necessary components and accessories of the AAC device. If an accessory necessary for the trial use of a device by a recipient is not available for rental, but the communication device is available for rental, Medicaid may consider purchasing the accessory for the trial use of the communication device by that recipient.
5. Trial periods may be extended and/or different AAC devices provided, when requested by the speech-language pathologist responsible for evaluating the trial use period.
6. Results of trial use periods must be included with any subsequent request for prior authorization of purchase of the AAC device. Recommendations for the purchase of an AAC device, as a result of a trial use period of the device, must clearly indicate the patient's ability to use the device during the trial period.

D. Repairs

1. Medicaid will cover repairs to keep AAC devices, accessories, and other system components in working condition. Medicaid coverage for repairs includes the cost of parts, labor, and shipping, when not otherwise available without charge pursuant to a manufacturer's warranty.

a. Providers of AAC devices are expected to comply with the Louisiana New Assistive Devices Warranty Act, which includes, but is not limited to the following provisions.

i. All persons who make, sell, or lease assistive devices (including AAC devices) must provide those who buy or lease the equipment with a warranty that lasts at least one year from the time the equipment is delivered to the customer.

ii. If, during the warranty period, the equipment does not work, the manufacturer or dealer must make an attempt to repair the equipment.

b. Medicaid additionally requires providers to provide the recipient with a comparable, alternate AAC device while repairing the device during a warranty period.

c. Reimbursement may be provided for rental of an alternate AAC device during a repair period after expiration of the warranty.

d. Medicaid will not cover repairs or rental of a loaner device when repairs are made during a warranty period.

2. When a device is received by the provider for the purpose of repair, the provider will conduct an assessment of the device to determine whether it can be repaired, and if so, prepare a written estimate of the parts, labor, and total cost of the repair, as well as the effectiveness (i.e., estimated durability) of the repair. If the manufacturer or provider concludes that the device is not repairable and a replacement device is needed, written notice will be provided to the recipient.

3. Medicaid coverage for repairs greater than \$300.00 must be accompanied by a statement from the speech-language pathologist. The statement must indicate:

a. whether there have been any significant changes in the sensory status (e.g., vision, hearing, tactile); postural, mobility or motor status; speech, language, and expressive communication status; or any other communication need or limitation of the recipient as described in Section II.B.3. (b through g, and j); and

b. whether the device remains the speech language pathologist's recommendation for recipient's use.

E. Replacement or Modification

1. Modification or replacement of AAC devices will be covered by Medicaid subject to the following limitations.

a. Requests for modification or replacement of AAC devices and/or accessories may be considered for coverage after the expiration of three or more years from the date of purchase of the current device and accessories in use, except as stated in Section II.E.1.d and II.E.1.e.i.

b. Requests for modification or replacement require prior authorization and must include the recommendation of the speech-language pathologist.

c. Requests for replacements of AAC devices may be submitted for identical or different devices.

d. Requests for replacements of identical AAC devices must be accompanied by a statement from the

provider that the current device can not be repaired or that replacement will be more cost effective than repair of the current device. Data must be provided about the following:

i. age;

ii. repair history; and

(a) frequency;

(b) duration; and

(c) cost.

iii. repair projections (estimated durability of repairs).

e. Requests for modification or replacement of AAC devices with different devices must include the following additional information:

i. documentation that a significant change has occurred in the recipient's expressive communication, impairments, and/or communication limitations. Modification or replacement requests due to changed individual circumstances must be supported by a new assessment of communication limitations by a speech-language pathologist, and may be submitted at any time; or

ii. even though there has been no significant change in the recipient's communication limitations, there has been a significant change in the features or abilities of available AAC devices (i.e., a technological change) that will overcome or permit an even greater amelioration of the recipient's communication limitations as compared to the current AAC device. A detailed description of all AAC device changes and the purpose of the changes must be provided with the results of a re-evaluation by a speech-language pathologist.

f. Requests for replacements of AAC devices due to loss or damage (either for identical or different devices) must include a complete explanation of the cause of the loss or damage and a plan to prevent the recurrence of the loss or damage.

III. Prior Authorization

A. All requests for AAC devices and accessories must be prior authorized by Medicaid in accordance with the criteria described in this rule.

B. Medicaid will not consider purchase of an AAC device when an alternative means of funding through another agency or other source (e.g., Louisiana Rehabilitation Services, school systems, private insurance, etc.) is available for the recipient. All requests should indicate the availability or lack of availability of purchase through other funding sources. AAC devices are covered under the durable medical equipment program for recipients residing in nursing facilities if the criteria described in this rule are met.

C. When the medical necessity cannot be determined for an AAC device in accordance with the criteria stated above and utilizing the supporting documentation submitted with the prior authorization request, the following steps shall be taken:

a. if it is determined that any essential information in establishing medical necessity for the AAC device is incomplete or has been omitted from the prior authorization request, the prior authorization unit will contact the speech-language pathologist who conducted the assessment to request submission of the specific, additional information that is needed to determine medical necessity; and/or

b. if it is determined that an additional interpretation of information contained in the prior authorization unit request is needed in order to establish medical necessity for an AAC device, the prior authorization will consult with speech language pathologist(s) who have extensive AAC experience as recommended by the American Speech Language & Hearing Association (ASHA), the United States Society for Augmentative & Alternative Communication (USSAAC), and/or the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA), to obtain the required interpretation.

i. Only one request for additional information by direct contact with the speech/language pathologist who conducted the assessment and/or only one interpretation with a consulting speech-language pathologist will be made per prior authorization request.

ii. If additional information requested by Medicaid from the speech/language pathologist, or the additional interpretation requested from a consulting speech-language pathologist is not received within the 25 day time frame required for a Medicaid prior authorization determination, a decision will be made by the medical reviewer utilizing the information submitted with the initial prior authorization request and based on the reviewer's interpretation of that information. If the additional information or interpretation is provided at a later time, the provider must submit a new prior authorization request form for review.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0007#005

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and
Treatment (EPSDT) Dental Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in accordance with the Administrative Procedure Act, R. S. 49:950 et seq. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the Bureau

minus the amount which any third-party coverage would pay. As a result of the budgetary shortfall, the Bureau adopted a rule to reduce the reimbursement fees for EPSDT dental services by seven percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau has now determined it is necessary to restore the seven percent reduction that was previously made to the reimbursement fees for EPSDT Dental services. In addition, the reimbursement fees for certain designated procedure codes will be increased.

This action is necessary to protect the health and welfare of recipients by ensuring the availability of providers to participate in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for EPSDT Dental services by approximately \$3,285,683 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the seven percent reduction that was previously made to the reimbursement fees for the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services. In addition, the reimbursement fees for certain designated procedure codes will be increased to the following rates.

Procedure Code	Procedure Name	New Rate
02110	Amalgam-1 Surface Deciduous	\$ 35.00
02120	Amalgam-2 Surface Deciduous	\$ 45.00
02130	Amalgam-3 Surface Deciduous	\$ 55.00
02140	Amalgam-1 Surface Permanent	\$ 35.00
02150	Amalgam-2 Surface Permanent	\$ 45.00
02160	Amalgam-3 Surface Permanent	\$ 55.00
02930	Stainless Steel Crown-Primary	\$ 75.00
02931	Stainless Steel Crown-Permanent	\$ 75.00
02950	Crown Buildup	\$ 75.00
05211	Upper Acrylic Partial w/Clasp	\$355.00
05212	Lower Acrylic Partial w/Clasp	\$355.00
07110	Simple Extraction	\$ 35.00
07210	Surgical Extraction	\$ 50.00

Interested persons may submit written comments to the following address: Ben A. Bearden, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0007#051

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and Treatment (EPSDT) KidMed Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This emergency rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed Services under the Medicaid Program. Reimbursement for these services is the flat fee established by the bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the bureau adopted a rule to reduce the reimbursement fees for EPSDT KidMed services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the legislature during the 2000 second special session, the bureau has now determined it is necessary to restore the 7 percent reduction that was previously made to the reimbursement fees for EPSDT KidMed services. It is estimated that implementation of this Emergency Rule will increase expenditures for EPSDT KidMed services by approximately \$1,961,277 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction to reimbursement fees for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0007#079

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and Treatment (EPSDT) Rehabilitation Services Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R. S. 49:950 et seq. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Rehabilitation services under the Medicaid Program. Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third-party coverage would pay. As a result of a budgetary shortfall, the Bureau adopted a rule to reduce the reimbursement fees for EPSDT Rehabilitation services by seven percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau has now determined it is necessary to restore the 7 percent reduction that was previously made to the reimbursement fees for EPSDT Rehabilitation services. This action is necessary to protect the health and welfare of recipients by ensuring the availability of providers to participate in the Medicaid Program. It is estimated that the implementation of this Emergency Rule will increase expenditures for EPSDT Rehabilitation services by approximately \$279,342 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction to reimbursement fees for Early Periodic Screening Diagnosis and Treatment (EPSDT) Rehabilitation services.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0007#058

DECLARATION OF EMERGENCY

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

Emergency Medical Transportation Program
Emergency Ambulance Transportation Services

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

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the bureau adopted a rule to reduce the reimbursement for emergency ambulance transportation services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the legislature during the 2000 second special session, the bureau has now determined it is necessary to restore the 7 percent reduction previously made to the reimbursement rates for emergency ambulance transportation services. In addition, the base rate for these services will be increased by 2 percent. This action is necessary to protect the health and welfare of recipients by ensuring the availability of providers to participate in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for emergency ambulance transportation services by approximately \$934,790.14 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction previously made to the reimbursement rates for emergency ambulance transportation services. In addition, the base rate for these services is increased by 2 percent.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0007#081

DECLARATION OF EMERGENCY

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

Family Planning Clinics CReimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in accordance with the Administrative Procedure Act, R. S. 49:950 et seq. This emergency rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage for family planning clinic services. Reimbursement for these services is a flat fee established by the bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the bureau adopted a rule to reduce the reimbursement rate for family planning services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the legislature during the 2000 second special session, the bureau has now determined it is necessary to restore the 7 percent reduction that was previously made to the reimbursement rate for family planning services. This action is necessary to protect the health and welfare of recipients by ensuring the availability of providers to participate in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for family planning services by approximately \$33,366 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction to reimbursement for family planning clinics.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0007#078

DECLARATION OF EMERGENCY

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

Home Health Extended Skilled Nursing
Visits Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing has adopted the following emergency rule is in accordance with the Administrative Procedure Act, R. S. 49:950 et seq. This Emergency Rule shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for home health extended skilled nursing visits provided to medically fragile Medicaid recipients under the age of 21. Reimbursement is made at a prospective rate established by the Bureau. As a result of a budgetary shortfall, the Bureau adopted a rule to reduce the reimbursement rate for the first hour of the Home Health extended skilled nursing visit to \$20.00 (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the legislature during the 2000 second special session, the bureau has now determined it is necessary to increase the reimbursement rate for the home health extended skilled nursing visit to \$24.50 per hour. It is estimated that implementation of this emergency rule will increase expenditures in the home health program by approximately \$1,473,577 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increase the reimbursement rate for home health extended skilled nursing visits to \$24.50 per hour.

Interested persons may submit written comments to the following address: Ben A. Bearden, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0007#052

DECLARATION OF EMERGENCY

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

Laboratory and Portable X-Ray Services
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Administrative Procedure Act, R.S. 49:950 et seq. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage for laboratory and portable x-ray services under the Medicaid Program. Reimbursement for laboratory services is made on the basis of either the lower of billed charges, the state maximum amount, or the Medicare fee schedule amount. Reimbursement for portable x-ray services is on a flat fee basis. As a result of a budgetary shortfall, the Bureau adopted a rule to reduce the reimbursement rates for laboratory and portable x-ray services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the bureau has now determined it is necessary to restore the 7 percent reduction that was previously made to the reimbursement rates for laboratory and portable x-ray services. It is estimated that implementation of this emergency rule will increase expenditures for laboratory and portable x-ray services by approximately \$3,063,006 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, the Bureau of Health Services Financing restores the 7 percent reduction to reimbursement for laboratory and portable x-ray services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0007#062

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Medical Transportation Program
 Non-Emergency Ambulance Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for non-emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall the bureau adopted a rule to reduce the base rate for non-emergency ambulance transportation services to the rate that was in effect prior to July 1, 1999 (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the legislature during the 2000 second special session, the bureau has now determined it is necessary to restore the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999. In addition, the reimbursement fees for certain designated procedure codes will be increased. It is estimated that implementation of this Emergency Rule will increase expenditures for non-emergency transportation services by approximately \$3,597,022 for the state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999. In addition, the reimbursement fees for certain designated procedure codes will be increased to the following rates:

A0360	Base rate, BLS, 1 st Trip	\$125.00
A0364	Base rate, no specialized ALS services, 1 st trip	\$125.00
A0366	Base rate, Specialized ALS services, 1 st trip	\$125.00
A0380	Loaded miles, BLS, 1 st trip	\$ 4.32
A0390	Loaded miles, ALS, 1 st trip	\$ 4.32
Z5100	Transfer, loaded miles, BLS, 1 st trip	\$125.00
Z5101	Transfer, loaded miles, ALS, 1 st trip	\$125.00
Z5102	Loaded miles, ALS or BLS, 2 nd trip	\$4.32
Z9497	Base rate, ALS or BLS, 2 nd trip	\$125.00

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A

copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
 Secretary

0007#080

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Mental Health Rehabilitation Services
 Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for mental health rehabilitation services under the Medicaid Program. Reimbursement for these services is a prospective, negotiated and non-capitated rate based on the delivery of services as specified in the service agreement and the service package required for the adult and child/youth populations. As a result of a budgetary shortfall, the bureau adopted a rule to reduce the reimbursement rates for mental health rehabilitation services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau has now determined it is necessary to restore the 7 percent reduction that was previously made to the reimbursement rates in the Mental Health Rehabilitation Program for high need services for adults and children as well as moderate need services for children. It is estimated that implementation of this Emergency Rule will increase expenditures in the Mental Health Rehabilitation Program by approximately \$1,110,707 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction to reimbursement rates in the Mental Health Rehabilitation Program for high need services for adults and children as well as moderate need services for children.

Interested persons may submit written comments to Ben Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

DECLARATION OF EMERGENCY

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

Nursing Facilities CReimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:953(B)(1), et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage under the Medicaid Program for private nursing facility services. Payments for nursing facility services are made in accordance with the prospective reimbursement methodology adopted effective August 1, 1984 (*Louisiana Register*, Volume 10, No. 6). A rule was subsequently adopted to establish patient specific classifications of care in accordance with requirements of the Omnibus Budget Reconciliation Act (OBRA) of 1987 (*Louisiana Register*, Volume 16, No. 12). Subsequent rules were adopted to establish specialized nursing facility levels of care for specific types of patients in skilled nursing units such as Skilled Nursing/Infectious Disease (SN/ID) and Skilled Nursing/Technology Dependent Care (SN/TDC). The payment for SN/ID and SN/TDC was established as a cost-based reimbursement methodology (*Louisiana Register*, Volume 14, Number 12 and Volume 15, Number 11). The Bureau has decided that it is necessary to amend the December 20, 1988 and November 20, 1989 rules to convert the reimbursement methodology from a cost-based to a prospective methodology for SN/ID and SN/TDC services.

This action is necessary to ensure health and welfare of Medicaid recipients by assuring continued access for specialized levels of care for skilled nursing services. This emergency rule is being adopted to continue the provisions of the October 21, 1999 Rule.

Emergency Rule

Effective June 15, 2000, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will reimburse nursing facilities for Skilled Nursing-Infectious Disease (SN/ID) and Skilled Nursing-Technology Dependent Care (SN/TDC) services under a prospective reimbursement methodology. This methodology utilizes the skilled nursing (SN) rate inflated to the applicable rate year, plus an average allowable cost per day. The allowable cost per day is determined through the Department's audit process in accordance with allowable cost guidelines for SN/ID and SN/TDC and based on cost

reports for the provision of these services plus a five percent incentive factor inflated to the midpoint of the year preceding the rate year.

A. Reimbursement Methodology. Reimbursement for SN/ID and SN/TDC services shall be set at the rates paid for skilled nursing level of care plus a prospective statewide enhancement to ensure reasonable access to appropriate services. The enhancement shall be based on average allowable incremental costs of all acceptable cost reports for the year on which the rates are based and in accordance with guidelines for allowable incremental costs and inflated forward to reflect current costs. In addition, the following requirements must be met:

1. the facility must have a valid Title XIX provider agreement for provision of nursing facility services;
2. the facility must be licensed to provide nursing services; and
3. the facility must have entered into a separate contractual agreement with the Bureau to provide SN/ID and/or SN/TDC services in accordance with standards for the care of individuals with infectious diseases or technological dependency and meet all applicable staffing and services requirements.

B. Allowable Incremental Costs for SN/ID

1. Direct nursing costs are based on demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/ID services. Nursing services personnel includes head/charge nurse, registered nurses (RNs), licensed practical nurses (LPNs), nurse assistants, and orderlies. These costs exclude administrative nursing costs not directly related to patient care.

a. A minimum of 4.0 nursing hours per patient day for infectious disease residents is required. Costs for direct patient care in excess of 9.6 hours per patient day are not allowable on the SD/ID supplemental cost report.

b. The marginal portion of demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/ID services in excess of nursing requirements for routine skilled nursing services will be allowed as SN/ID cost.

2. Other direct care services are based on demonstrated appropriate services including the following:

a. respiratory therapy, social services or any other specialized services that are directly attributable to SN/ID status and not covered in the SN rate;

b. specialized nursing supplies related to SN/ID status must be supported by detailed justification that substantiates the cost of any specialized nursing supplies;

c. specialized dietary needs related to SN/ID status must be supported by detailed justification to substantiate the cost of any specialized dietary needs.

3. Plant and maintenance costs are based on demonstrated dependency of SN/ID special equipment. Costs associated with demonstrated enhanced infection control measures are included. Capitalized purchases are not included.

4. Allocated costs are based on the ratio of direct nursing hours required for SN/ID service not covered in the regular skilled rate (1.4 hours per resident day) related to total facility direct nursing hours. The following costs are allocated: administrative and general, nursing administration (DON), housekeeping, medical supplies and dietary.

5. Incentive factor is equal to five percent of the average allowable incremental costs added to the enhanced rate in order to assure reasonable access to SN/ID services.

C. Allowable incremental costs for SN/TDC:

1. Direct nursing costs are based on demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/TDC services. Nursing service personnel includes head/charge nurse, registered nurses (RNs), licensed practical nurses (LPNs), nurse assistants, and orderlies. These costs exclude administrative nursing costs not directly related to patient care.

a. A minimum of 4.5 nursing hours per patient day for technology dependent care residents is required. Costs for direct patient care in excess of 9.6 hours per patient day are not allowable on the SN/TDC supplemental cost report.

b. The marginal portion of demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/TDC services in excess of nursing requirements for routine skilled nursing services will be allowed as SN/TDC cost.

2. Other direct care services are based on demonstrated appropriate services including the following:

a. respiratory therapy, social services or any other specialized services that are directly attributable to SN/TDC status and not covered in the SN rate;

b. specialized nursing supplies related to SN/TDC status must be supported by detailed justification that substantiates the cost of any specialized nursing supplies;

c. specialized dietary needs related to SN/TDC status must be supported by detailed justification that substantiates the cost of any specialized dietary needs.

3. Plant and maintenance costs are based on demonstrated dependency of SN/TDC special equipment. Capitalized purchases are not included.

4. Allocated costs are based on the ratio of direct nursing hours required for SN/TDC service not covered in the regular skilled rate (1.9 hours per resident day) related to total facility direct nursing hours. The following costs are allocated: administrative and general, nursing administration (DON), housekeeping, medical supplies and dietary.

5. Incentive factor is equal to five percent of the average allowable incremental costs added to the enhanced rate, in order to assure reasonable access to SN/TDC services.

Facilities shall submit cost reports at the end of each 12 month period. Providers shall be required to segregate SN/ID or SN/TDC costs from other long term care costs and to submit a supplemental cost report which shall be subject to audit. No duplication of costs shall be allowed and allowable costs shall be in accordance with Medicare cost principles.

Rates for SN/ID and SN/TDC services will be rebased as determined necessary by the Department to ensure that appropriate services are reimbursed on a reasonable cost basis, recognizing the need for accountability for public funds, as well as the provider's right to a fair payment for services rendered. Base rate adjustments will result in a new base rate component which will be used to calculate the rate for subsequent years. A base rate adjustment may be made when the event, or events, causing the adjustment is not one that would be reflected in inflationary indices.

Annual inflationary adjustments shall be contingent upon appropriation by the Legislature.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0007#004

DECLARATION OF EMERGENCY

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

Professional Services Program Physician Services

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

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Physicians' Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration Common Procedure Codes (HCPC) Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau determined it was necessary to reduce the reimbursement paid to physicians for specific procedure codes by seven percent (*Louisiana Register*, Volume 26, Number 2). Reimbursement was reduced for selected locally-assigned HCPCS and the following CPT procedure codes: surgery codes (10040-69979), medicine codes (90281-99199), evaluation and management codes (99201-99499), radiology codes (70010-79999) and pathology and laboratory codes (80048-89399).

As a result of the allocation of additional funds by the legislature during the 2000 second special session, the bureau has now determined it is necessary to restore the seven percent reduction that was previously made to the reimbursement to physicians for specific procedure codes. In addition, the reimbursement fees for certain designated procedure codes will be increased.

It is estimated that implementation of this emergency rule will increase expenditures for physician services by approximately \$33,562,102 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restore the seven percent reduction that was previously made to the

reimbursement fees for selected locally-assigned HCPCS and the following CPT procedure codes: surgery codes(10040-69979), medicine codes (90281-99199), evaluation and management codes (99201-99499), radiology codes (70010-79999) and pathology and laboratory codes (80048-89399). In addition, the reimbursement fees for certain designated procedure codes will be increased to the following rates:

Evaluation and Management		
99212 - \$30.13	99213 - \$36.13	99214 - \$41.13
99215 - \$49.63	99283 - \$35.23	
Follow-up Prenatal Visit		
Z9005 - \$33.43 (03*)	\$36.13 (09*)	
* type of service		

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0007#059

DECLARATION OF EMERGENCY

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

Rehabilitation Centers Services CReimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement for services delivered by rehabilitation centers that are not part of a hospital, but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies. As a result of a budgetary shortfall, the bureau adopted a rule to reduce the reimbursement rates paid to rehabilitation centers by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the legislature during the 2000 second special session, the bureau has now determined it is necessary to restore the 7 percent reduction that was previously made to the reimbursement rates for rehabilitation centers. This action is necessary to protect the health and welfare of recipients by ensuring the availability of providers to participate in the

Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures to rehabilitation centers by approximately \$61,775 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction to reimbursement for rehabilitation centers. Rehabilitation centers are facilities that are not part of a hospital, but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0007#060

DECLARATION OF EMERGENCY

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

Targeted Case Management Services
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for targeted case management services rendered to the following targeted populations: infants and toddlers, high risk pregnant women, HIV-infected persons and elderly and disabled adult waiver recipients. Reimbursement for these services is a fixed monthly rate for the provision of the core elements of case management services. As a result of a budgetary shortfall, the bureau adopted rule to reduce the reimbursement rates for case management services provided to the above-referenced targeted populations by seven percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the legislature during the 2000 Second Special Session, the Bureau has now determined it is necessary to restore the seven percent reduction previously made to the fixed monthly reimbursement rate for case management services provided to the above-referenced targeted populations. This action is necessary to protect the health and welfare of recipients by ensuring the availability of providers to

participate in the Medicaid Program. It is estimated that the implementation of this emergency rule will increase expenditures for case management services by approximately \$225,234 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the seven percent reduction previously made to the fixed monthly reimbursement rate for targeted case management services provided to the following targeted populations: infants and toddlers, high risk pregnant women, HIV-infected persons and elderly and disabled adult waiver recipients.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0007#063

DECLARATION OF EMERGENCY

**Department of Revenue
Office of Alcohol and Tobacco Control**

Caterer's Permits (LAC 55:VII.325)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and the authority of R.S. 26:793, the Department of Revenue, Office of Alcohol and Tobacco Control, hereby finds that emergency action is deemed necessary to provide for a Class A-Caterer's Permit. The Office of Alcohol and Tobacco Control finds that this action is necessary in order to protect the public from the imminent threat to public health and safety associated with the sale of beverage alcohol from unlicensed caterers.

For the foregoing reason, the Office of Alcohol and Tobacco Control hereby amends LAC 55:VII.325 to provide for a Class A-Caterer's Permit. Act 987 of the 1999 Regular Session of the Louisiana Legislature amended R.S. 26:793(A) to provide that the Commissioner establish by rule and regulation a Class A-Caterer's Permit for any person who does not otherwise qualify for a retail dealers permit pursuant to the provisions of R.S. 26:71.1 or R.S. 26:271.2.

The effective date of this emergency rule is August 1, 2000, and it shall remain in effect for 120 days or until the final rule takes effect through normal promulgation process, whichever occurs first.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§325. Caterer's Permits

A. The Office of Alcohol and Tobacco Control may issue a Class A-Caterer's permit to persons who meet the qualifications and criteria of either Paragraph 1 or 2 below:

1. Holders of any Class A or B liquor or beer retail permit will be allowed to sell and serve alcoholic beverages, on a temporary basis, limited to three days in duration, at events other than on the premises for which the holder's regular permit is issued.

a. This holder of a Class A-Caterer's permit must use the permit in conjunction with their Class A or B liquor and/or beer permit and shall expire at the same time as the regular Class A or B permit.

b. If the regular Class A or B permit ceases to be valid for cause, the caterer's permit ceases to be valid.

2. Persons who do not otherwise qualify for a retail dealer permit pursuant to the provisions of R.S. 26:71.1 or R.S. 26:271.2, but who operate a facility with a fully equipped kitchen where food is prepared for the purpose of catering functions, will be allowed to obtain a Class A-Caterer's permit under the following conditions:

a. This holder of a Class A-Caterer's permit must derive 70 percent of their gross annual revenue from the sale of food or food-related product, and 40 percent of the gross revenue per event must be derived from the sale of food or food-related product.

b. This holder of a Class A-Caterer's permit must maintain separate sales figures for alcoholic beverages.

B.1. An application for a Class A-Caterer's permit shall be made on forms prescribed by the Commissioner of the Office of Alcohol and Tobacco Control.

2. A Class A-Caterer must display the permit on the premises of the event being catered.

3. A Class A-Caterer must only cater events in an area in which the sale of alcoholic beverages has been authorized by local option election and with permission from the local governing authority.

4. A Class A-Caterer must provide the Office of Alcohol and Tobacco Control with written notice of the date, time, and place of each catered event at least one week prior to the date of the event.

5. All alcoholic beverages at a catered event must be dispensed by the holder of the Class A-Caterer's permit or his employee, agent, or servant.

6. Class A-Caterers must comply with the provisions of the Responsible Vendor Program of R.S. 26:931 et seq.

7. The cost of the Class A-Caterer's permit is \$200 per year or any portion thereof; costs shall not be prorated.

8. Class A-Caterer permits shall be renewed annually in accordance with the provisions relative to all other retail permits, specifically R.S. 26:88 and 285 and LAC 55:VII.321.

C. - 10. ...

D. Any violation of these regulations or causes enumerated in Title 26 of the Louisiana Revised Statutes shall subject the retailer to revocation, suspension, or withholding of his alcoholic beverage permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 19:904 (July 1993), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 26:

Murphy J. Painter
Commissioner

0006#033

DECLARATION OF EMERGENCY

Department of Social Services Rehabilitation Services

Vocational Rehabilitation Services Policy Manual
Applicant/Client Appeal Rights
(LAC 67:VII.107)

The Department of Social Services, Louisiana Rehabilitation Services, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to amend the following Rule in the Vocational Rehabilitation Services Policy Manual: Section 107: Applicant/Client Appeal Rights.

The rule governing Applicant/Client Appeal Rights outlines the due process policy for anyone who is dissatisfied with a decision made by the agency. This Emergency Rule must be effective June 23, 2000, as the initial Emergency Rule will expire on this date, and the final Rule is projected to become effective on July 20, 2000. This Rule is being amended as the Louisiana Rehabilitation Services' (LRS) appeals process has undergone a significant change as a result of the 1998 amendments to the Rehabilitation Act. The fourth level of review by the director of LRS was removed. However, it is within the express authority of the Rehabilitation Act for LRS to implement this level of review. It is significant to note that although the new amendments do allow for a fourth level of review, the characteristic of this fourth level of review is that it must be conducted, at a minimum, by the DSS Secretary.

Currently, the final administrative level of appeal is the impartial hearing officers, who are required to review agency determinations and issue decisions based upon the provisions of the state plan, the Rehabilitation Act (including regulations implementing the act) and state regulations or policies that are consistent with the federal requirements specified in the act.

DSS General Counsel has strongly recommended to LRS to put the fourth level review in place, and LRS did so with an Emergency Rule effective February 25, 2000. This recommendation was necessary due to the influx of controversial rulings from impartial hearing officers, which have exposed the agency to sanctions or penalties by the United States as being contrary to the state plan, the Rehabilitation Act (including regulations implementing the act) and state regulations or policies that are consistent with the federal requirements specified in the act. These unlawful rulings have not been based upon the act's authorities (including specific guidance and directives by RSA), but have evidenced the hearing officers' subjective interpretation of the substantive law.

Because the Rehabilitation Act requires implementation of the hearing officer's decision pending a civil action for review, LRS may be mandated to comply with and/or implement a decision which violates the law and policy of the state plan, the Rehabilitation Act (including regulations implementing the act) and state regulations or policies that are consistent with the federal requirements specified in the

act, as well as a disregard of a specific directive of Rehabilitation Services Agency (RSA), the federal agency authorized to implement and administer the provisions of the Act. However, said compliance with the hearing officer's decision would subject Louisiana Rehabilitation Services to an audit exception by RSA and concurrent sanctions. Moreover, such unauthorized spending, when paired with the resultant sanctions/loss of federal funding, would greatly reduce the services available and imperil the public health, safety, and welfare of the state's VR population. These unlawful decisions have and will result in VR Program abuse, as numerous clients have been advised to resort to the appeals process in bad faith in order to take advantage of these beneficial rulings.

RSA has scheduled a compliance review of LRS for April 10, 2000. LRS has been informed by RSA that agency action in accord with said hearing officers' decisions constitutes "substantial compliance failure"; under the Rehabilitation Act, said failures will subject LRS to penalties and sanctions.

The LRS policy manual is referenced in LAC 67:VII. as follows.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§107. Applicant/Client Appeal Rights

A. - B.12.f ...

C. Fair Hearing

1. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review; at any point after a mediation session; or as a direct avenue of appeal bypassing the administrative review or the mediation process option. The fair hearing will be conducted by an impartial hearing officer after receipt of the initial written request. At the time the fair hearing is requested, the applicant/client shall be offered mediation as an option to resolve a dispute if mediation has not been exercised already.

2. An impartial hearing officer shall be selected on a random basis to hear a particular case by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Council. The impartial hearing officer shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services as expeditiously as possible.

3. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services will continue during the fair hearing process unless the services being provided under the current Individualized Plan for Employment were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

4. In order to insure that the applicant/client is afforded the option of availing themselves the opportunity to

pursue a fair hearing, adequate notification by the counselor and/or regional manager must include:

- a. the agency's decision (inclusive of an administrative review and/or mediation agreement, if conducted);
- b. the basis for, and effective date of, that decision;
- c. the specific means for appealing the decision;
- d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the fair hearing;
- e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and
- f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

Note: All fair hearings must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

D. Review of Fair Hearing Decisions

1. The impartial review for decisions rendered by impartial hearing officers is the final level of appeal within the Department of Social Services regarding disputes arising within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the impartial review by the Department of Social Services, any further review of the issue by the applicant/client (or, as appropriate, the applicant/client's representative) or the agency must be by civil action through the public court system.

2. The applicant/client or the agency can request a review of an impartial hearing officer's decision by making a written request to the secretary of the Department of Social Services within statutory guidelines. The secretary cannot delegate the responsibility for making this final decision to any officer or employee of Louisiana Rehabilitation Services. The applicant/client and the agency shall be provided an opportunity to submit additional evidence and information relevant to the final decision.

3. The Department of Social Services' secretary may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the applicant/client unless the secretary determines, based on clear and convincing evidence, that the decision of the Impartial Hearing Officer is clearly erroneous on the basis of being contrary to the state plan, the Rehabilitation Act (including regulations implementing the act) or any state regulation or policy that is consistent with the federal requirements specified in the act.

4. The secretary shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services. This decision shall include a full report of the findings and grounds for the decision.

E. Civil Action. Any party aggrieved by a final decision from an impartial review by the Department of Social Services may bring civil action for review of such decision. The action may be brought in any state court of competent jurisdiction or in district court of the United States of competent jurisdiction without regard to the amount in controversy. If a party brings a civil action, the final decision of the Department of Social Services shall be implemented pending review by the court. In any action brought under this subsection, the court shall:

- 1. receive the records relating to the hearing;

2. hear additional evidence at the request of a party to the action; and

3. base the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:189 (February 1995), amended LR 25:1266 (July 1999), amended LR 26:

J. Renea Austin-Duffin
Secretary

0007#008

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2000 Commercial King Mackerel Season

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 finfish seasons and all rules and regulations pursuant thereto by emergency rule, and R.S. 56:6(25)(a) and R.S. 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish and the authority granted to the secretary by the Wildlife and Fisheries Commission at its regular meeting on June 1, 2000, the secretary hereby set the following season for the commercial harvest of king mackerel in state waters.

The commercial season for king mackerel in Louisiana state waters will open at 12:01 a.m., July 1, 2000, and will remain open until the allotted portion of the commercial king mackerel quota for the western Gulf of Mexico has been harvested or projected to be harvested.

James H. Jenkins, Jr.
Secretary

0007#019

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2000 Spring Inshore Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 4, 2000, which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2000 spring inshore shrimp season in

any area or zone when biological and technical data indicates the need to do so, the secretary hereby declares:

The 2000 spring inshore shrimp season will close in inshore waters west of the western bank of Bayou Lafourche, on Saturday, June 24, 2000, at 6 a.m. This closure includes that part of Zone 2 from the western bank of Bayou Lafourche to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, and all of Zone 3. Zone 3 is the portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island, westward to the Louisiana-Texas state line.

That part of Zone 2 east of the west bank of Bayou Lafourche, and all of Zone 1 will remain open until further notice.

The state territorial waters south of the inside/outside shrimp line, as described in R.S. 56:495 shall remain open.

The number of small white shrimp in these areas has increased substantially in the last week. The region is being closed to protect these immigrating shrimp.

James H. Jenkins, Jr.
Secretary

0007#007

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2000 Spring Shrimp Season Closure CZone 2

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 4, 2000, which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2000 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the Secretary hereby declares:

The 2000 spring inshore shrimp season in the open portion of Zone 2 will close on Monday, July 3, 2000, at 6:00 a.m.

With this closure, all inshore waters from the eastern shore of South Pass of the Mississippi River, west to the Louisiana-Texas state line, are closed to the harvest of shrimp.

The State Territorial Waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall remain open.

The number of small white shrimp in these areas has increased substantially in the last week. The region is being closed to protect these immigrating shrimp.

James H. Jenkins, Jr.
Secretary

0007#020

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2000 Wild Alligator Harvest Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set seasons, the Wildlife and Fisheries Commission does hereby set the 2000 wild alligator harvest season.

The 2000 wild alligator harvest season shall be from official sunrise August 30, 2000 through official sunset September 30, 2000. Alligators taken from the wild may be removed from hook and line and taken with other legal capture devices only during daylight hours between official sunrise and official sunset.

Emergency procedures are necessary to allow department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas.

The Wildlife and Fisheries Commission does hereby also authorize the Secretary of the Department of Wildlife and Fisheries to delay, extend, close or reopen this season based on technical data or if enforcement problems develop.

Thomas M. Gattle, Jr.
Chairman

0007#046

Rules

RULE

Department of Agriculture and Forestry Seed Commission

Virus-Tested Sweet Potato Certification Standards (LAC 7:XIII.222)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et. seq., the Department of Agriculture and Forestry, Seed Commission, adopts regulations regarding virus-tested sweet potato certification standards.

The Department of Agriculture and Forestry, Seed Commission adopts these rules and regulations for the purpose of setting tolerances for specific sweet potato pests. These tolerances, which were inadvertently omitted from the original standards, will provide a mechanism to maintain the physical quality of virus-tested sweet potato plants and seed. These rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter C. Certification of Specific Crops/Varieties

§222. Virus-Tested Sweet Potato Certification Standards

A.-B.3.a.iii. ...

b. Specific Greenhouse Requirements

Presence or Symptoms of:	Maximum Tolerance Allowed	
	Foundation (LAES)	Certified GO
Bacterial Stem Rot (<i>Erwinia chrysanthemi</i>)*	0	0
Black Rot (<i>Ceratocystis fimbriata</i>)*	0	0
Scurf (<i>Monilochaetes infuscans</i>)*	0	0
Root-Knot Nematode (<i>Meloidogyne</i> spp.)	0	0
Feathery Mottle (sweet potato feathery mottle virus [SPFMV])*	0	0
Russet Crack (a strain of SPFMV)*	0	0
Internal Cork (a virus)*	0	0
Wilt (<i>Fusarium oxysporum</i> f. sp. <i>batatas</i>)*	0	0
Sweet potato Weevil (<i>Cylas formicarius</i> var. <i>elegantulus</i>)	0	0
Exotic or hazardous pests	0	0
Variety mixture	0	0
Off-types (mutations)	0	0

* Plants or mini-roots exhibiting symptoms

C.-3a.iv. ...

b. Specific Field Requirements (vine inspection):

Presence or symptoms of:	Maximum Tolerance Allowed		
	Certified G1	Certified G2	Certified G3
Bacterial Stem Rot (<i>Erwinia chrysanthemi</i>)	none	none	none
Wilt (<i>Fusarium oxysporum</i> f. sp. <i>batatas</i>)	none	none	none
Exotic or Hazardous Pests	none	none	none
Variety Mixture	none	none	none
Off-types (mutations)	0.05%	0.05%	0.10%

D.-E. 2b. ...

c. Specific Seed Root Standards

Maximum Tolerance Allowed

Presence or symptoms of:	Certified G1	Certified G2	Certified G3
	Surface rots (<i>Fusarium</i> spp.) & Soft Rots (<i>Rhizopus</i> spp.)	5%	5%
Bacterial Root Rot (<i>Erwinia</i> spp.)	none	none	none
Black Rot (<i>Ceratocystis fimbriata</i>)	none	none	none
Scurf (<i>Monilochaetes infuscans</i>)	1.0%	1.0%	2.0%
Streptomyces soil rot (<i>Streptomyces ipomoeae</i>)	2.5%	2.5%	5.0%
Root-Knot Nematode (<i>Meloidogyne</i> spp.)	5.0%	5.0%	5.0%
Russet Crack (a strain of SPFMV)	none	none	none
Internal Cork (a virus)	none	none	none
Wilt (<i>Fusarium oxysporum</i> f. sp. <i>batatas</i>)	none	none	none
Sweet potato Weevil (<i>Cylas formicarius</i> var. <i>elegantulus</i>)	none	none	none
Exotic or hazardous pests	none	none	none
Variety Mixture	none	none	none
Off-types (mutations)	0.20%	0.20%	0.50%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 25:1617 (September 1999), amended LR 26:1428 (July 2000).

Bob Odom
Commissioner

0007#036

RULE

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Advisory Commission on Pesticides

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, adopts regulations regarding applications of certain pesticides in certain parishes.

The Department of Agriculture and Forestry, Advisory Commission is adopting these rules and regulations for the purpose of adding Wards 1 and 6 of St. Landry Parish so that certain pesticides shall not be applied by commercial applicators between March 15 and September 15.

These rules comply with and are enabled by R.S. 3:3203 and R.S. 3:3223.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A.-B.15. ...

C. The pesticides listed in §143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes:

- | | |
|-------------------------------|-------------------------------------|
| 1. Avoyelles | 14. Madison |
| 2. Bossier | 15. Morehouse |
| 3. Caddo | 16. Natchitoches |
| 4. Caldwell | 17. Ouachita |
| 5. Catahoula | 18. Pointe Coupee, Ward 2 |
| 6. Claiborne, Ward 4 | 19. Rapides |
| 7. Concordia | 20. Red River |
| 8. DeSoto, Ward 7 | 21. Richland |
| 9. East Carroll | 22. St. Landry, Wards 1, 4, 5 and 6 |
| 10. Evangeline, Wards 1 and 5 | 23. Tensas |
| 11. Franklin | 24. Union |
| 12. Grant | 25. West Carroll |
| 13. LaSalle | 26. Winn, Ward 7 |

D.-M.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000).

Bob Odom
Commissioner

0007#035

RULE

**Department of Civil Service
Board of Ethics**

Contribution Limit (LAC 52:I.1609)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Louisiana Board of Ethics has amended a rule to the Rules for the Board of Ethics concerning the aggregate political committee contribution limit for district level candidates pursuant to its authority in Section 1134.A of the Code of Governmental Ethics (R.S. 42:1134.A).

**Title 52
ETHICS**

Part I. Board of Ethics

Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act

§1609. Contribution Limit

A. For the period January 1, 2000 to December 31, 2003, the total amount of combined contributions for both the primary and general elections, from political committees,

which may be accepted by a district office candidate shall not exceed \$49,255.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 26:1429 (July 2000).

R. Gray Sexton
Ethics Administrator

0007#023

RULE

**Department of Economic Development
Office of Commerce and Industry**

Regional Economic Development
Alliance Program (LAC 13:VII)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Louisiana Department of Economic Development hereby repeals, in its entirety, *Louisiana Administrative Code* Title 13, Economic Development; Part VII, Regional Economic Development Alliance Program.

Title 13

ECONOMIC DEVELOPMENT

Part VII. Regional Economic Development Alliance Program

Repealed

Kevin P. Reilly, Sr.
Secretary

0007#088

RULE

**Department of Economic Development
Office of Commerce and Industry
Division of Business Incentives**

Mississippi River Bridge Relocation
Tax Exemption Program (LAC 13:I.Chapter 27)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Louisiana Department of Economic Development hereby repeals, in its entirety, *Louisiana Administrative Code* Title 13, Economic Development; Part I, Financial Incentive Programs; Chapter 27, Mississippi River Bridge Relocation Tax Exemption Program.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 27. Mississippi River Bridge Relocation Tax Exemption Program

Repealed

Kevin P. Reilly, Sr.
Secretary

0007#091

RULE

**Department of Economic Development
Office of Commerce and Industry
Division of Business Incentives**

Sales and Use Tax Exemption on Energy
Conservation Property (LAC 13:I.Chapter 29)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Louisiana Department of Economic Development hereby repeals, in its entirety, *Louisiana Administrative Code* Title 13, Economic Development; Part I, Financial Incentive Programs; Chapter 29, Sales and Use Tax Exemptions on Energy Conservation Property.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

**Chapter 29. Sales and Use Tax Exemption on Energy
Conservation Property**

Repealed

Kevin P. Reilly, Sr.
Secretary

0007#087

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators C Business Education (LAC 28:I.901)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). In April, 1998 BESE approved Business Education Guidelines which outline new Business Education course requirements. The rule change is necessary to align the Business Education Program of Studies with the new Business Education Guidelines.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 26:1430 (July 2000).

**Bulletin 741C Louisiana Handbook for
School Administrators**

**Business Education Program of Studies
Business Education**

2.105.02 Computer/technology education course offerings shall be as follows.

<u>Course Title</u>	<u>Recommended Grade Level</u>	<u>Units</u>
Accounting	10-12	1
Administrative Support Occupations	10-12	1
Advanced/Computerized Accounting	11,12	1
Business Computer Applications I & II	10-12	1
Business English	11,12	1
Business Law	10-12	.5
Business Machines	9-12	.5
Cooperative Office Education	12	3
Computer Multimedia Presentations	11,12	.5
Desktop Publishing	10-12	.5
Economics	9-12	1
Education for Careers	6-8	.5
	9-12	.5
Entrepreneurship	9-12	1
Financial Math	11-12	1
Introduction to Business	9-12	1
Introduction to Management	10-12	1
Keyboarding/Keyboarding Applications	6-12	1
Records Management	9-12	1
Telecommunications	9-12	.5
Word Processing	10-12	1

Keyboarding and Keyboarding Applications shall be a pre-requisite to Administrative Support Occupations and Word Processing. Level I courses shall be pre-requisite to Level II courses. Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding and have maintained an overall "C" average. Student attendance records should also be considered. Additional pre-requisites may be required by the individual school system.

Weegie Peabody
Executive Director

0007#024

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators C Distance Education Programs
(LAC 28:I.901)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The availability of technology in schools and the explosion of courses offered through emerging technologies such as the Internet and video conferencing have increased curricular opportunities for schools and students. The current Standard 2.105.42 limits distance education opportunities for schools and districts to those

programs approved by the Louisiana Department of Education. The Standard 2.105.42 provides guidance and rigorous standards for districts to follow in choosing high quality programs that will expand the course offerings for students in Louisiana.

**Title 28
EDUCATION**

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

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 26:1431 (July 2000).

Distance Education Programs

2.105.42 A school system choosing to implement a distance education program shall establish policy and procedures for reviewing and approving programs that meet State Standards for Distance Education as established by the State Board of Elementary and Secondary Education.

Weegie Peabody
Executive Director

0007#025

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators (LAC 28:I.901)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, referenced in LAC 28:I.901A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The changes more clearly explain and refine existing policy as it pertains to the formula for computing Growth Targets, performance labels for schools scoring above and below the state average, and the minimum number of CRT units required for test data to be statistically significant.

**Title 28
EDUCATION**

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

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November, 1975), amended LR 25:2160 (November 1999), LR 26:1431 (July 2000).

Growth Targets

2.006.05 Each school shall receive a Growth Target that represents the amount of progress it must make every two years to reach the state 10- and 20-Year Goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT test in each school will be a factor in determining the Growth Target for each school.

Growth Targets
During the first ten years, the formula is the following:

$[PropRE * (100-SPS)/N] + [PropSE * (100-SPS)/(N + 5)]$, or 5 points, *whichever is greater*

where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT tests, divided by the total number of students in the school who are eligible to participate in the NRT or CRT tests. For purposes of this calculation, gifted, talented, speech or language impaired, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.

PropRE = 1-PropSE. PropRE is the proportion of students not in special education.

SPS = School Performance Score
N = Number of remaining accountability cycles in the 10-Year Goal period

During the second ten years, the formula is the following:

$[PropRE * (150-SPS)/N] + [PropSE * (150-SPS)/(N + 5)]$, or 5 points, *whichever is greater*

Performance Labels

2.006.07 A Performance Label shall be given to a school that qualifies, in addition to Growth Labels.

A school with an SPS of 30 or below shall be identified as an Academically Unacceptable School. This school immediately enters Corrective Actions.

For purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the SPS that includes only regular education students shall be used. Any school with an SPS of 30 or less, based on the test scores of regular education students only, shall be deemed an Academically Unacceptable School.

A school with an SPS of 30.1-state average shall be labeled Academically Below the State Average.
A school with an SPS of state average-99.9 shall be labeled Academically Above the State Average.
* The state average is recalculated every growth cycle.
**A school with an SPS of 100.0-124.9 shall be labeled a *School of Academic Achievement*.
**A school with an SPS of 125.0-149.9 shall be labeled a *School of Academic Distinction*.
**A school with an SPS of 150.0 or above shall be labeled a *School of Academic Excellence* and shall have no more Growth Targets.
**A school with these labels shall no longer be subject to Corrective Actions and shall not receive "negative" growth labels, i.e., School in Decline and Minimal Academic Growth. This school shall continue to meet or exceed Growth Targets to obtain "positive" growth labels, recognition, and possible rewards.

Inclusion of Schools with Very Low Numbers of Students

2.006.19 A minimum number of testing units shall be required for School Accountability calculations. All schools shall have a minimum number of 80 testing units to include one or all four parts of the statewide criterion-referenced test. All schools shall have a minimum number of 20 students with complete composite scores on the statewide norm-referenced test.

Weegie Peabody
Executive Director

0007#026

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators C Transfer Policy, Nonpublic Schools and Home School Programs (LAC 28:I.901)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The amendment relates to students transferring into public schools from in-state nonpublic schools and home schooling programs. School systems will implement the new change with the 2000-2001 school year.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 26:1432 (July 2000).

Transfer of Student Records from Approved School

2.026.06 A student transferred from a state-approved school, in- or out-of state, shall be allowed credit for work completed in the former school. When a student transfers from one school to another, a properly certified transcript, showing the student's record of attendance, achievement, immunization records, and the units if credit earned, shall be required.

Effective with the 2000-2001 school year, students in grades 5 and 9 transferring to the public school system from any in-state nonpublic school (state approved and unapproved), any out-of-state school or home schooling program shall be required to pass the English language arts and Mathematics portions of the state-developed LEAP 21 placement test.

Transfer of Student Records from Schools that are Not State Approved

2.026.08 Local school officials from any state approved school receiving a student from an unapproved school, in- or out-of state, will determine the placement and/or credits for the student. The principal and/or superintendent may require the student to take an entrance examination on any subject matter for which credit is claimed. The school issuing the high school diploma shall account for all credits required for graduation, and its records will show when and where the credit was earned.

Effective with the 2000-2001 school year, students in grades 5 and 9 transferring to the public school system from any in-state unapproved school, any out-of-state school or home schooling program shall be required to pass the English language arts and Mathematics portions of the state-developed LEAP 21 placement test.

Students Transferring from Home Schooling

2.026.09 The school shall adhere to the policies and procedures established by the school system for students re-entering the system from home schooling.

Effective with the 2000-2001 school year, students in grades 5 and 9 transferring to the public school system from in-state or out-of-state home schooling shall be required to pass the English language arts and Mathematics portions of the state-developed LEAP 21 placement test.

Weegie Peabody
Executive Director

0007#027

RULE

Board of Elementary and Secondary Education

Bulletin 1566C Guidelines for Pupil Progression (LAC 28:XXXIX.503 and 505)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., the State Board of Elementary and Secondary Education adopted an amendment to Bulletin 1566, Guidelines for Pupil Progression. The guidelines for Pupil Progression incorporate the High Stakes Testing Policy that was approved by the Board of Elementary and Secondary Education in January, 1999 and revised at its September and December, 1999 meetings as well as other policies related to the promotion and retention of students. The September revisions changed the current policy by allowing 4 percent of the students with disabilities (special education) to be tested out-of-level for the 1999-2000 school year. Prior to this version all students with disabilities except the estimated 1.5 percent of students that may be tested using alternate assessment were tested using LEAP 21. The December revisions extended the appeals process to eighth grade students in addition to the fourth grade. School systems will implement the new guidelines with the 1999-2000 school session.

**Title 28
EDUCATION**

**Part XXXIX. Bulletin 1566C Guidelines for Pupil
Progression**

Chapter 5. Placement Policies; State Requirements

§503. Regular Placement¹

A.1.a.-A.1.b.ii.(a). ...

(b). Exceptions. This state policy may be overridden by the School Building Level Committee (and therefore the student may be promoted) only under the following conditions:

(i). if a given student scores at the "Unsatisfactory" level in English language arts or mathematics and scores at the "Proficient" or "Advanced" level in the other and participates in the summer school and retest offered by the LEA;

(ii). if a student with disabilities (excluding students with only a Speech or Language Impairment) participates in on-level testing, the SBLC may consider the override only if the student has participated in the summer school and retest offered by the LEA's;

(iii). if a student with disabilities (excluding students with only a Speech or Language Impairment) participates in out-of-level testing, promotion decisions shall be determined by the SBLC;

(iv). if a student with disabilities participates in an alternative assessment, promotion decisions shall be determined by the SBLC.

iii. Summer school and end-of-summer retest must be offered by school systems at no costs to all students who score at the "Unsatisfactory" level on LEAP 21.

iv. ...

v. A school system, through its superintendent, may grant an appeal on behalf of individual fourth and eighth grade students who have not scored above the "Unsatisfactory" level after retesting provided that certain criteria are met.

vi. School systems must develop and implement uniform policies to determine placement of eighth grade students who have not scored "Approaching Basic" or above on LEAP 21 into Options 1, 2, and 3.

vii. Eighth grade students who are 16 years of age on or before September 30 must enroll in an alternative program or setting, Option 2 or Option 3.

D. Transfer Students

1. The local school board shall establish written policies for the placement of students transferring from all other systems and home schooling programs (public, nonpublic, (both in and out-of-state), and foreign countries).

a. Effective with the 2000-2001 school year, students in grades 5 and 9 transferring to the public school system from any in-state nonpublic school (state approved and unapproved), any home schooling program or Louisiana resident transferring from any out-of-state school shall be required to pass the English language arts and Mathematics portions of the state-developed LEAP 21 placement test.

¹Schools can only make recommendations to parents regarding student enrollment in kindergarten, since kindergarten is not mandatory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 2000), amended LR 26:1433 (July 2000).

**§505. ProgressionCStudents Participating in Alternate
Assessment**

A.1.a.-d...

2. For the 1999-2000 school year only, students with disabilities who participate in the alternate assessment shall have promotion decisions determined by SBLC's.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 2000), amended LR 26:1433 (July 2000).

Weegie Peabody
Executive Director

0007#028

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Fugitive Emission Control
(LAC 33:III.2121)(AQ201)

Under the authority of the Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality regulations, LAC 33:III.2121 (Log #AQ201).

The rule removes the word "pipeline" and removes a redundant phrase to provide clarification to the regulations for monitoring requirements and exemptions to monitoring requirements for petroleum refineries, SOCM, MTBE, and polymer manufacturing industry for fugitive emission control of organic compounds. The basis and rationale for the rule are to provide clarifications to the existing regulations.

This rule meets an exception listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

**Chapter 21. Control of Emission of Organic
Compounds**

Subchapter A. General

§2121. Fugitive Emission Control

[See Prior Text in A-C.1.a.i]

ii. valves in liquid service; and

[See Prior Text in C.1.a.iii-b.i]

ii. valves in gas service;

[See Prior Text in C.1.b.iii]

iv. valves in light liquid service at SOCMI, MTBE, and Polymer Manufacturing Plants; and

v. pumps in light liquid service at SOCMI, MTBE, and Polymer Manufacturing Plants.

[See Prior Text in C.1.c-4.b]

c. Flanges, inaccessible valves, valves that are unsafe to monitor, check valves (including similar devices not externally regulated). Inaccessible valves should be monitored on an annual basis at a minimum. Unsafe-to-monitor valves should be monitored when conditions would allow these valves to be monitored safely, e.g., during shutdown.

[See Prior Text in C.4.d-G. Liquid Service]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:654 (July 1991), LR 21:1330 (December 1995), LR 22:1128 (November 1996), LR 22:1212 (December 1996), LR 24:22 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1433 (July 2000).

James H. Brent, Ph.D.
Assistant Secretary

0007#069

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Laboratory Accreditation

(LAC 33:I.4501, 4503, 4701-4707, 4711,4717, 4719, 4901, 5103, 5301, 5303, 5311, 5315, 5701, 5705, 5901-5915)(OS035)

Under the authority of the Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Office of the Secretary regulations, LAC 33:I.Subpart 3 (Log #OS035).

The laboratory accreditation rule requires accreditation of commercial environmental laboratories by the department every three years. The accreditation program requires third-party audits, submission of samples for independent analysis, and inspection of regulated laboratories. The rule provides for quality assurance/quality control procedures, laboratory personnel qualifications, and sampling protocol. The rule establishes the requirements to ensure the quality of data generated by commercial environmental laboratories that are accredited by the department, and provides clarification to facilitate a better understanding of the program requirements. The rule also promulgates the changes made in the emergency rule OS035E, which was effective on December 15, 1999. These changes extend the deadline to apply for accreditation to July 1, 2000, and the deadline for accreditation by the department to December

31, 2000. The basis and rationale for the rule are to provide clarification for the laboratory accreditation rule and to promulgate the changes in the emergency rule, OS035E.

This rule meets an exception listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 3. Laboratory Accreditation

Chapter 45. Policy and Intent

§4501. Description and Intent of Program

A. Description and Intent of Program

1. These regulations provide requirements for an accreditation program specifically applicable to commercial laboratories, wherever located, that provide chemical analyses, analytical results, or other test data to the department, by contract or by agreement, and the data is:

a. submitted on behalf of any facility, as defined in R.S. 30:2004;

b. required as a part of any permit application;

c. required by order of the department;

d. required to be included on any monitoring reports submitted to the department;

e. required to be submitted by contract; or

f. otherwise required by department regulations.

2. The department laboratory accreditation program is designed to ensure the accuracy, precision, and reliability of the data generated, as well as the use of department-approved methodologies in the generation of that data. Laboratory data generated by commercial environmental laboratories that are not accredited under these regulations will not be accepted by the department.

[See Prior Text in B-B.6]

7. radiologicals/radioassays;

8. bioassays/biomonitoring/toxicological testing; and

9. asbestos.

[See Prior Text in C-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000).

§4503. Definitions

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

[See Prior Text]

Commercial Laboratory any laboratory, wherever located, that performs analyses or tests for third parties for a fee or other compensation and provides chemical analyses, analytical results, or other test data to the department, by contract or agreement, and the data is: submitted on behalf of any facility, as defined in R.S. 30:2004; or required as a part of any permit application; or required by order of the

department; or required to be included on any monitoring reports submitted to the department; or otherwise required by department regulations. The term commercial laboratory does not include laboratories accredited by the Louisiana Department of Health and Hospitals in accordance with R.S. 49:1001, et seq.

Corrective Action Proficiency Test Sample Ca proficiency test sample of known composition provided by an external source (e.g., EPA) that is used to evaluate lab performance after completion of required corrective action(s) of a failed proficiency evaluation test round.

[See Prior Text]

Field Test Cany activity or operation conducted on-site resulting in the measurement of a specific parameter. Field tests are generally conducted at or near the site of sampling and include soil classification, pH, temperature, flow rate, fugitive emissions monitoring of valves, pumps, flanges, etc.

[See Prior Text]

Interim Status Ca status that exists in the accreditation process wherein all application requirements have been met by the laboratory, but formal accreditation status has not been granted by the department. Interim status is granted on a case-by-case basis at the discretion of the department and shall not exceed one year in length.

[See Prior Text]

NRCC Nuclear Regulatory Commission.

Primary Accrediting Authority 3/4for the purpose of NELAP Accreditation, the Louisiana Department of Environmental Quality, with the exception of those laboratory analyses accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals.

[See Prior Text]

Traceable Material Cany material whose true value or true measurement can be related to a standard reference, usually national or international, all having stated uncertainties (e.g., NIST traceable thermometers, standards, reagents, etc.).

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:918 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000).

Chapter 47. Program Requirements

§4701. Accreditation Process

A. The department accreditation process comprises four basic steps:

1. the submittal to the department's Office of Management and Finance, Laboratory Services Division of a written request from the laboratory in the form of an application provided by the department, along with payment of all applicable fees;

[See Prior Text in A.2-4]

B. When all requirements for accreditation have been successfully fulfilled, the department shall grant the

applicant laboratory a formal notice of certification that lists those analytes and methods for which the laboratory is certified. The certificate must be posted within public view in the laboratory setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000).

§4703. Application for Accreditation

[See Prior Text in A]

B. An application for environmental laboratory accreditation shall be made in writing to the Office of Management and Finance, Laboratory Services Division. This application will provide all requested information and be accompanied by the appropriate application fee. Information will include at least one satisfactory round of the most recent department-specified proficiency evaluation test results or an analytical data package for test categories where no accessible proficiency tests exist. Supplemental information may be required.

[See Prior Text in C-D]

E. In cases where all application requirements have been met, including review of all methodology and quality assurance program data, a special status of "interim status" may be granted at the discretion of the department on a case-by-case basis. Interim status shall not exceed one year in length. Before a laboratory is granted full accreditation, all requirements of these regulations must be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000).

§4705. Categories of Accreditation

A. At the time of application each applicant must clearly identify both the fields of testing and the test categories for which accreditation is sought. A copy of the relevant test method documentation and the requisite equipment for the method must be available at the laboratory. A current list of approved methodologies for each parameter/analyte will be maintained by the department's Louisiana Environmental Laboratory Accreditation Program (LELAP) Unit in the Office of Management and Finance, and a copy of the list will become a part of the application package. In cases where the methodology used by the laboratory is not listed, the laboratory shall submit documentation that will verify that the results obtained from the method in use are equal to or better than those results obtained from the approved methodology. The department will review the data submitted by the laboratory and will notify the laboratory in writing within 60 calendar days if the method is acceptable or unacceptable as an alternate method of analysis.

[See Prior Text in B-B.1]

2. air pollutants including industrial hygiene and Toxic Organic Compounds (T.O.) methods, stack sampling, and ambient air;

[See Prior Text in B.3-B.8]

9. asbestos;

10. geo-technical properties of soils including, but not limited to, compaction test, permeability, particle size analysis, soils classification, etc.; and

11. minor conventional parameters CBOD₅, oil and grease, TSS, pH, fecal and total coliform, and residual chlorine.

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000).

§4707. Fees

* * *

[See Prior Text in A-E]

F. Travel expenses incurred by representatives of the department, traveling within and outside of the state of Louisiana, conducting an assessment/inspection for the purpose of accreditation shall be reimbursed by the laboratory. These rates shall be in accordance with the Division of Administration state general travel regulations, within the limits established for state employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000).

§4711. Proficiency Testing Participation

* * *

[See Prior Text in A-C]

D. Proficiency testing studies will be available at a minimum of every six months. Laboratories shall participate in two proficiency test studies per year for each field of testing. Failure to meet the minimum semiannual schedule shall be regarded as a failed proficiency test study. Laboratories may set up round robin testing programs under the department's supervision in order to satisfy this requirement, using splits where applicable.

E. Laboratories shall satisfactorily complete two proficiency test studies offered for each test category accredited within the most recent three proficiency test studies attempted. A year shall be considered as the 12-month period from the first day of July until the last day of June. Results shall be considered satisfactory when they are within the acceptable limits established by the testing agency or the department.

F. Each participating laboratory shall authorize the proficiency test provider to release the results of the proficiency evaluation (PE) test to the Office of Management and Finance, Laboratory Services Division at the same time that they are submitted to the laboratory. Every laboratory that receives test results that are "unacceptable" for a specific analyte must investigate and identify likely causes for these results, resolve any problems, and report such activity to the Office of Management and Finance, Laboratory Services Division along with the submittal of corrective action proficiency sample test results.

The laboratory shall report only the analytes for which corrective action was required.

* * *

[See Prior Text in G-J]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000).

§4717. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000).

§4719. Implementation

A. All commercial laboratories analyzing data as of the effective date of these regulations that are directly or indirectly submitting data to the department must submit an application for accreditation as required in LAC 33:I.4701.A.1, including the review fee, by July 1, 2000. The department shall not accept laboratory data generated by laboratories that do not comply with this deadline until such laboratories receive accreditation and fully comply with the requirements of this Section. The department shall not accept environmental data submitted to the department either directly or indirectly until the laboratory has applied for accreditation under these regulations.

B. All laboratories subject to these regulations must receive accreditation from the department, as provided in these regulations, undergo an on-site inspection as specified in LAC 33:I.4701.A.2, and successfully participate in proficiency evaluations as required in LAC 33:I.4701.A.3 by December 31, 2000, or as otherwise agreed to by the department and the applicant, not to exceed one year from December 31, 2000. The department shall not accept data generated by laboratories that do not comply with these deadlines until such laboratories receive accreditation and fully comply with the requirements of this Section.

C. These regulations shall not apply to field tests as defined in LAC 33:I.4503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000).

Chapter 49. Organization and Personnel Requirements

§4901. Laboratory Staff for All Programs Covered by these Regulations

A. Managerial Staff. The laboratory shall have the managerial staff with the authority and resources needed to discharge their duties. The technical director or his/her designated representative shall be a full-time member of the laboratory staff who has the authority to exercise the day-to-day supervision of the laboratory policies and procedures. The laboratory shall be organized in such a way that confidence in its independence of judgment and integrity is maintained at all times. The laboratory shall specify and document the responsibility, authority, and interrelation of all personnel who manage, perform, or verify work affecting

the quality of calibrations and tests. Such documentation shall include:

[See Prior Text in A.1-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000).

Chapter 51. On-Site Inspection/Evaluation
§5103. Laboratory Facilities

A. The laboratory conditions in which the tests are undertaken shall not invalidate the test results or adversely affect the required accuracy of measurement. The laboratory shall have the equipment, adequate storage facilities, procedures to preserve the identity, concentration and stability of samples, and energy sources needed for proper testing. They shall be equipped with devices to monitor essential environmental conditions. Specifically, the testing laboratory shall include the following:

[See Prior Text in A.1-5]

6. adequate procedures and facilities in place for collection, storage, and disposal of wastes, including expired chemicals, reagents, solutions, standards, and other material with a limited shelf-life;

[See Prior Text in A.7-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:924 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1437 (July 2000).

Chapter 53. Quality System Requirements
§5301. Quality Assurance/Quality Control Requirements

A. Each laboratory seeking accreditation shall maintain their Quality Assurance/Quality Control (QA/QC) program using appropriate document control practices. The quality assurance manual, analytical methods, and administrative procedures necessary to meet requirements of these regulations shall be reviewed for accuracy and approved for release by the appropriate personnel, distributed, and controlled to ensure the use of the current approved version. Each laboratory seeking accreditation shall:

[See Prior Text in A.1-C]

1. the structure of the laboratory (organizational charts and generic position descriptions) including relationship between management, technical operations, support services, and quality systems;

[See Prior Text in C.2-6]

7. references to procedures for the control and maintenance of documents, including document control of laboratory notebooks, instrument logbooks, standards logbooks, and records for data reduction, validation, storage, and reporting;

8. the laboratory's procedures for achieving traceability of measurements to NIST reference materials or other traceable commercial vendors;

[See Prior Text in C.9-14]

15. references to policy and procedures for the resolution of complaints received from clients or other parties. Records of the complaint and subsequent action shall be maintained;

[See Prior Text in C.16-17]

18. identification of the laboratory's approved signatories; at a minimum, the title page of the quality assurance manual must have the signed and dated concurrence (with appropriate titles) of all responsible parties, including the quality assurance officer(s), technical director, and the laboratory manager;

19. references to processes/procedures for educating and training personnel in their ethical and legal responsibilities, including potential punishment and penalties for improper, unethical, or illegal actions;

20. references to processes/procedures for establishing that personnel are adequately experienced in the duties they are expected to carry out and/or receive any needed training;

21. references to procedures for reporting analytical results; and

22. a table of contents and applicable lists of references, glossaries, and appendices.

[See Prior Text in D]

E. The laboratory shall conduct annual internal audits to verify the compliance with the laboratory's quality system. The quality assurance officer shall be responsible for planning and organizing audits. Personnel shall not audit their own activities.

F. Standard operating procedures (SOPs) shall be kept in a manual available to the analyst and the inspector. SOPs may be included as a part or section of the laboratory's quality assurance manual. The laboratory shall have clearly defined, written SOPs or an equivalent, addressing, at a minimum, and as appropriate:

1. methods of analysis:
 - a. identification of the test method;
 - b. applicable matrix or matrices;
 - c. detection limit;
 - d. scope and application, including components to be analyzed;
 - e. summary of test method;
 - f. definitions;
 - g. safety;
 - h. equipment and supplies;
 - i. reagents and standards;
 - j. sample collection, preservation, storage, handling, and chain of custody;
 - k. quality control;
 - l. calibration;
 - m. procedure;
 - n. calculations;
 - o. method performance;
 - p. pollution prevention;
 - q. data assessment and acceptance criteria for quality control measures;
 - r. corrective actions for out-of-control or unacceptable data;

- s. contingencies for handling out-of-control or unacceptable data;
- t. waste management;
- u. references; and
- v. any tables, diagrams, flowcharts, and validation data;

- 2. procurement and inventory procedures;
- 3. preventive maintenance;
- 4. recordkeeping and record storage (archives);
- 5. data reduction, validation, and reporting;
- 6. correcting erroneous reports;
- 7. management of laboratory wastes and hazardous materials; and

8. complaints registered against the laboratory's testing procedures, reporting procedures, and/or other general operating procedures.

G Supervisory staff shall be responsible for quality assurance/quality control implementation and compliance.

H. The following general quality control principles shall apply, where applicable, to all testing laboratories. The manner in which they are implemented is dependent on the types of tests performed by the laboratory (e.g., chemical, microbiological, radiological). The standards for any given test type shall assure that the following applicable principles are addressed:

1. all laboratories shall have protocols in place to monitor the following quality controls:

- a. adequate controls to monitor tests such as blanks, spikes, or reference toxicants;
- b. adequate tests to define the variability and/or reproducibility of the laboratory results such as duplicates;
- c. measures to ensure the accuracy of the test data, including sufficient calibration and/or continuing calibrations, use of certified reference materials, proficiency test samples, or other measures;
- d. measures to evaluate test performance, such as method detection limits, or range of applicability such as linearity;
- e. selection of appropriate formulae to reduce raw data to final results such as linear regression, internal standards, or statistical packages;
- f. selection and use of reagents and standards of appropriate quality; and
- g. measures to assure constant and consistent test conditions (both instrumental and environmental) where required by the method, such as temperature, humidity, light, or specific instrument conditions;

2. all quality control measures shall be assessed and evaluated on an ongoing basis, and quality control acceptance limits shall be used to determine the validity of the data. The acceptance/rejection criteria shall be updated at a frequency established by the method or by the department's standards;

3. the laboratory shall have procedures for the development of acceptance/rejection criteria where no method or regulatory criteria exists; and

4. the method-specified and/or method-recommended quality control protocols shall be followed. The essential standards shall be used if no protocols are written into the method or if the method protocols are less stringent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:925 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1437 (July 2000).

§5303. Equipment and Supplies

* * *

[See Prior Text in A-C]

D. Records shall be maintained for each item of equipment and all reference materials significant to the tests performed. Maintenance log book(s) and/or an electronic maintenance database with scheduled backups shall be maintained for all major equipment. Each log shall include:

* * *

[See Prior Text in D.1-6]

7. the details of maintenance, including history of any damage, malfunction, modification, or repair.

* * *

[See Prior Text in E-H.6.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:926 (May 1998), repromulgated LR 24:1093 (June 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1438 (July 2000).

§5311. Quality Assurance for Biomonitoring Laboratories

* * *

[See Prior Text in A-M.2]

N. Reference toxicants such as sodium chloride (NaCl), potassium chloride (KCl), cadmium chloride (CdCl₂), copper sulfate (CuSO₄), sodium dodecyl sulfate (CH₃(CH₂)OSO₃Na), and potassium dichromate (K₂Cr₂O₇) are suitable for use by the laboratory. Standard reference materials can be obtained from commercial supply houses or can be prepared in-house using reagent grade chemicals.

* * *

[See Prior Text in O-O.7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:929 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1438 (July 2000).

§5315. Records

A. The laboratory shall maintain a record system that shall produce accurate, readily available records that document all laboratory activities. The testing laboratory shall retain on record all original raw data and observations, calculations and derived data, calibration records, and the final test report in a manner in which the continuity and integrity of the analytical process is preserved. All records shall be maintained for a minimum of 10 years or as required by regulatory or legal requirement. Where computers or automated equipment are used for the capture, processing, manipulation, recording, reporting, storage, or retrieval of test data, the laboratory shall ensure that:

1. computer software is documented and adequate for use;

2. procedures are established and implemented to protect the integrity of data. Such procedures shall include, at a minimum, integrity of data entry or capture, data storage, data transmission, and data processing;

3. computers and automated equipment are maintained to ensure proper functioning and retrieval of data; and
4. procedures are developed and implemented to maintain security of data, including prevention of unauthorized access to, or unauthorized amendment of, computer records.

* * *

[See Prior Text in B-F]

G The laboratory shall maintain administrative records (e.g., training records) in a manner in which the continuity, integrity, and retrievability processes are preserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:931 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1438 (July 2000).

Chapter 57. Maintenance of Accreditation

§5701. Display of Accreditation Certificate

* * *

[See Prior Text in A-B]

C. The accredited laboratory shall not misrepresent its state or NELAP accreditation documents. This shall include use in laboratory reports, catalogs, advertising, business solicitations, or proposals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:932 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1439 (July 2000).

§5705. Discreditation and Suspension

* * *

[See Prior Text in A-F.16]

G If the department discredits/suspends a laboratory, the laboratory shall return the certificate of accreditation to the department within 10 calendar days from receipt of notification of the discreditation or suspension.

AUTHORITY NOTE: Promulgated in accordance with RS. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:932 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1439 (July 2000).

Chapter 59. Accreditation for Laboratories Participating in the NELAP Certification Program

§5901. Accreditation Process

A. In-state laboratories participating in the National Environmental Laboratory Accreditation Program (NELAP) shall be certified under standards established by these regulations and those of the NELAP program, as found at <http://134.67.104.12/html/nelac/standards.htm> or by writing NELAP, U.S. Environmental Protection Agency (MD-75A), Research Triangle Park, NC 27711, Attention: NELAP Director, telephone (919) 541-1120. NELAP-certified laboratories shall be required to meet the requirements for reciprocity as set forth in LAC 33:I.4713.

B. The NELAP accreditation process comprises these basic steps:

1. the submittal to the department of a written request from the laboratory in the form of an application provided by the department with the payment of all applicable fees;

2. a review of personnel qualifications;
3. an on-site assessment/evaluation of the laboratory submitting the request/application by authorized representatives of the department with the appropriate laboratory background;
4. the successful participation in the NELAP-approved proficiency evaluations; and
5. a review of the quality assurance/quality control practices, and quality systems in use at the laboratory.

C. When all the requirements for accreditation have been successfully fulfilled, the department shall grant the applicant laboratory a formal notice of accreditation and a certificate of accreditation that lists those fields of testing, methods used by the laboratory, and individual analytes determined by a particular method for which the laboratory is accredited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1439 (July 2000).

§5903. Categories of Accreditation

A. A laboratory may apply for accreditation in any one or more of the nine fields of testing and in one or more of the eleven test categories applicable to the field(s) of testing selected. The laboratory shall be accredited in those parameters/analytes within the test category(ies) found in LAC 33:I.4705.B. The laboratory shall be accredited in those parameters/analytes within the test category(ies) for which the laboratory demonstrates acceptable performance on proficiency samples (when available) and meets all other requirements of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1439 (July 2000).

§5905. Inspections of a Laboratory

A. As a condition of obtaining and maintaining NELAP accreditation, the laboratory shall permit and facilitate inspections/assessments by personnel or designated representatives of the department. The specific requirements for an on-site inspection are outlined in LAC 33:I.Chapter 51.

B. Inspectors shall conform to appropriate safety procedures during an on-site inspection. The specific requirements for an inspector are outlined in LAC 33:I.4709.B.

C. A comprehensive on-site inspection/assessment of each accredited laboratory shall be conducted at intervals of not more than two years. The department may make an announced or unannounced inspection or assessment of an accredited laboratory whenever the department, in its discretion, considers such an inspection or assessment necessary to determine the extent of the laboratory's compliance with the conditions of its accreditation and these regulations.

D. The primary accrediting authority shall forward a written report of findings to the laboratory within 30 calendar days from the date of the on-site inspection/assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1439 (July 2000).

§5907. Corrective Action Reports in Response to On-Site Inspections

A. The laboratory shall submit to the department a corrective action plan/report. The plan/report shall include, at a minimum, the action(s) that the laboratory shall implement to correct each deficiency noted in the on-site inspection/assessment report and the time period required to accomplish each corrective action.

1. If the corrective action plan/report is deemed unacceptable, the laboratory shall have an additional 30 days to submit a revised corrective action plan/report.

2. If the corrective action plan/report is deemed unacceptable after the second submittal, the laboratory shall have its accreditation revoked in accordance with section 4.4.3 of the NELAP Standards for all or any portion of its scope of accreditation for any or all fields of testing.

3. If the laboratory fails to implement the corrective actions as stated in their corrective action plan/report, its accreditation shall be revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1440 (July 2000).

§5909. Proficiency Testing Participation

A. All laboratories seeking accreditation under NELAP shall participate in the department-approved proficiency testing program as required in LAC 33:I.4711.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1440 (July 2000).

§5911. Accreditation for Out-of-State Laboratories Seeking NELAP Accreditation

A. Acceptance of accreditation from another NELAP accrediting authority in that field of testing shall be determined by the department. The laboratory must comply with these regulations and the standards established by NELAP. NELAP certified laboratories shall be required to meet the requirements for reciprocity as set forth in LAC 33:I.4713.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1440 (July 2000).

§5913. Certification of Compliance Statement

A. The Certification of Compliance statement as required in section 4.1.9 of the NELAP standards shall be required. This statement shall be signed by the laboratory manager and the quality assurance officer or other designated person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1440 (July 2000).

§5915. Accreditation

A. The period of accreditation shall be one year. To maintain accreditation the laboratory shall meet all requirements of these regulations and the NELAP standards.

B. The department may suspend or discredit a laboratory in any or all of the test categories within the fields of testing for failure to meet the requirements of these regulations and the NELAP standards.

C. The department shall notify the laboratory by registered letter of the suspension or discreditation and the reason for the action.

D. Accreditation shall remain in effect until revoked by the accrediting authority, withdrawn at the written request of the accredited laboratory, or the expiration of the accreditation period.

E. The laboratory may renew accreditation by meeting the requirements outlined in LAC 33:I.5703.

F. Appeals for laboratories that have received discreditation or revocation notices are governed by applicable statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1440 (July 2000).

James H. Brent, Ph.D.
Assistant Secretary

0007#073

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Radiation Protection CDetermination of Fee
(LAC 33:XV.2508)(NE024)

Under the authority of the Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.2508 (Log #NE024).

This rule will amend the regulations so that if a registrant is no longer in possession of an x-ray unit for which he is being billed, and written documentation is received in the department by the due date on the invoice, the registrant will not have to pay the assessed fee. The written documentation shall include the name, address, and telephone number of transferee. If a registrant sells, donates, or transfers an x-ray unit for which a fee is being assessed, this rule will apply. The basis and rationale for this rule are to prevent the registrant from having to pay a fee on an x-ray unit that is no longer in his possession.

This rule meets an exception listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection

Chapter 25. Fee Schedule

§2508. Determination of Fee

* * *

(See Prior Text A-D)

E. Electronic products that are no longer possessed by the registrant (e.g., sold, donated, or transferred) shall not be subject to the annual maintenance fee, provided written documentation is received by the invoice due date, which includes the name, address, and telephone number to whom possession was transferred.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000).

James H. Brent, Ph.D.
Assistant Secretary

0007#072

RULE

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Remedial Action Plans (RAPs)
(LAC 33:V.625, 630, 635, 660 and 717)(HW073)

Under the authority of the Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has adopted the Hazardous Waste regulations, LAC 33:V.625, 630, 635, 660, and 717 (Log #HW073).

In order to maintain delegation to operate the hazardous waste program in Louisiana in lieu of EPA, or to become delegated for previously undelegated activities, the state must adopt regulations equivalent to federal regulations. Federal regulations promulgated in part 40 of the CFR on November 30, 1998, contain certain provisions which conflict with state statutes, specifically, the process to approve or deny a remedial action plan (RAP) application; the effective date of a RAP; when to begin physical construction; appeal of the decision to deny a modification or revocation; and reissuance or termination of a RAP. This rule replaces the federal requirements with equivalent state requirements that comply with the state statutes. In addition, the rule removes redundant state requirements for public notices for hazardous waste activities. The basis and rationale for this rule are to maintain an equivalent RCRA Subtitle C program.

This rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S. 49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental

Quality

Chapter 5. Permit Application Contents

Subchapter G. Remedial Action Plans (RAPs)

General Information

§625. May the Decision to Approve or Deny My RAP Application Be Administratively Appealed?

A. You may request an administrative hearing on a decision by the administrative authority to grant or deny your RAP application, under R.S. 30:2024. If the secretary does not grant your hearing request within 30 days of filing, you are entitled to file an application for *de novo* review of the secretary's action in the Nineteenth Judicial District Court.

B. An aggrieved person [as defined in R.S. 30:2004 (17)] may appeal a final decision on your RAP to the Nineteenth Judicial District Court, under R.S. 30:2050.21. Such an appeal would not suspend the effectiveness of the RAP, if one is issued. However, the secretary may grant, or the court may order, a stay of the RAP decision.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000).

§630. When Does My RAP Become Effective?

A. Your RAP becomes effective 30 days after the administrative authority notifies you and all commenters that your RAP is approved unless:

1. the administrative authority specifies a later effective date in the decision;
2. review is requested under R.S. 30:2024; or
3. no commenters requested a change in the draft RAP, in which case the RAP becomes effective immediately when it is issued.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000).

§635. When May I Begin Physical Construction of New Units Permitted Under the RAP?

A. You must not begin physical construction of new units permitted under the RAP for treating, storing, or disposing of hazardous remediation waste before receiving a RAP which is effective under the terms of LAC 33:V.630.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000).

§660. May the Decision to Approve or Deny a Modification, Revocation and Reissuance, or Termination of My RAP be Administratively Appealed?

A. You may request an administrative hearing on a decision by the administrative authority to grant or deny a modification, revocation and reissuance, or termination of

your RAP under R.S. 30:2024. If the secretary does not grant your hearing request within 30 days of filing, you are entitled to file an application for *de novo* review of the secretary's action in the Nineteenth Judicial District Court.

B An aggrieved person [as defined in R.S. 30:2004 (17)] may appeal a final decision on your RAP to the Nineteenth Judicial District Court, under R.S. 30:2050.21. Such an appeal would not suspend the effectiveness of the RAP, if one is issued. However, the secretary may grant, or the court may order, a stay of the RAP decision.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000).

Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits

Subchapter C. Public Notice of Permit Actions and Public Comment Period

§717. Methods

A. Public notice of activities described in LAC 33:V.713.A shall be given by the following methods:

[See Prior Text in A-A.5.b]

c. those on the list as a result of notification to the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state funded newsletters, environmental bulletins, or state law journals. The administrative authority may update the mailing list from time to time by requesting written indication of continued interest from those listed and the administrative authority may delete from the list the name of any person who fails to respond to such a request.

[See Prior Text in B-C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:478 (May 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1442 (July 2000).

James H. Brent, Ph.D.
Assistant Secretary

0007#071

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Volatile Organic Compounds CLoading
(LAC 33:III.2107)(AQ203)

Under the authority of the Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality regulations, LAC 33:III.2107 (Log #AQ203).

Test Methods 18, 25A, 25B, and flaring devices will be added as appropriate test methods for determining compliance with the control requirements for loading facilities for volatile organic compounds. This is part of the State Implementation Plan, which is federally enforceable, and EPA has requested these changes. The basis and rationale for this rule are to implement changes requested by EPA.

This rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S. 49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2107. Volatile Organic Compounds-Loading

[See Prior Text in A-E.1]

2. test method 18 (40 CFR part 60, appendix A, as incorporated by reference at LAC 33:III.3003) for determining gaseous organic compounds emissions by gas chromatography;

3. test method 25 (40 CFR part 60, appendix A, as incorporated by reference at LAC 33:III.3003) for determining total gaseous non-methane organic emissions as carbon;

4. test method 25A or 25B (40 CFR part 60, appendix A, as incorporated by reference at LAC 33:III.3003) for determining total gaseous organic concentration using flame ionization or nondispersive infrared analysis; and

5. flaring devices which shall be designed and operated according to 40 CFR 60.18.

[See Prior Text in F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:116 (February 1990), amended by the Office of Air Quality and Radiation Protection, LR 17:360 (April 1991), LR 22:1212 (December 1996), LR 24:20 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1442 (July 2000).

James H. Brent, Ph.D.
Assistant Secretary

0007#070

RULE

**Office of the Governor
Department of Veterans Affairs**

Revocation of Bonus Payments (LAC 4:VII.913 and 915)

The Louisiana Department of Veterans Affairs has deleted in its entirety LAC 4:VII.913 and 915, pertaining to the

Desert Shield/Desert Storm Bonus Payments and World War II Merchant Marine Bonus Payments. This action has been taken because both bonus programs have expired.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 9. Veterans' Affairs

Subchapter A. Veterans' Affairs Commission

§913. Desert Shield/Desert Storm Bonus Payments

Repealed

AUTHORITY NOTE: Promulgated by Act 12, Section 20-8xxx, Military Bonus Payments, 1991 Regular Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 17:1205 (December 1991), repealed LR 26:1443 (July 2000).

§915. World War II Merchant Marine Bonus Payments

Repealed

AUTHORITY NOTE: Promulgated in accordance with Act 90, 1993 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 20:294 (March 1994), repealed LR 26:1443 (July 2000).

David C. Perkins
Deputy Assistant Secretary

0007#022

RULE

**Department of Health and Hospitals
Board of Nursing**

Renewal of License and Change of Status
(LAC 46:XLVII.3333 and 3337)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 has amended the Professional and Occupational Standards pertaining to the retired status of the board. The rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

§3333. Renewal of License

A.-D.1. ...

2. Pays the required one-time fee as specified under LAC 46:XLVII.3341.

3. A license will be printed designating the year and retired status. No further licenses will be issued.

4. A licensee in retired status will continue to receive *The Examiner* and other official mailings and continue to be listed in the official roster of Registered Nurses in Louisiana.

5. After placed in retired status, no further renewal applications will be sent.

6. If at a future date, the licensee wishes to return to practice, the requirements for reinstatement specified under

LAC 46:XLVII.3335.D, 4507.E.2, and/or 4507.A.3 must be met.

7. The professional designation can be used followed by retired.

8. If the Registered Nurse (RN) license is placed in retired status, the Advanced Practice Registered Nurse (APRN) license shall also be placed in retired or inactive status with no fee.

9. The APRN license may be placed in retired or inactive status with no fee while the RN license remains active.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and 920.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 26:1443 (July 2000).

§3337. Change of Status

A. A registrant who is no longer practicing as a registered nurse, may, by submitting a written notice to the board, be granted inactive status. No annual renewal nor fee is required of a person in inactive status.

B. A person who holds an inactive status may resume practicing status by submitting a completed applicant form, paying the required fee and meeting all other requirements for licensure renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:920.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 16:1060 (December 1990), LR 24:1293 (July 1998), LR 26:1443 (July 2000).

Barbara L Morvant, R.N., M.N.
Executive Director

0007#001

RULE

**Health and Hospitals
Board of Physical Therapy Examiners**

Licensure; Unauthorized Practice; and
Supervision (LAC 46:LIV.Chapters 1 and 3)

Notice is hereby given, in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Physical Therapy Examiners (board), pursuant to the authority vested in the board by R.S. 2401.2A(3) intends to amend its existing rules as set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIV. Physical Therapy Examiners

Subpart 1. Licensure

**Chapter 1. Physical Therapists and Physical
Therapist Assistants**

**Subchapter B. Graduates of American Physical Therapy
Schools**

§107. Qualifications for License

A.-B.3. ...

4. have graduated from an associate degree program accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE); and

B.5-C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:662 (July 1991), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:1443 (July 2000).

§109. Procedural Requirements

A. In addition to the substantive qualifications specified in §107, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§123-129 of this Chapter, and if applicable, the procedures and requirements for examination required by the board provided by §§131-149 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 26:1444 (July 2000).

Subchapter C. Graduates of Foreign Physical Therapy Schools

§115. Qualifications for License

A.-A.1. ...

2. have successfully completed his education in physical therapy that is substantially equivalent to the requirements of physical therapists educated in accredited physical therapy programs in the United States as the board, upon evaluation of the applicants educational program by an approved credentials evaluation service, deems sufficient, however, such substantially equivalent education shall be no less than a total of 120 semester hour credits which includes a minimum of 60 semester hour credits for professional education and a minimum of 40 semester hours of general education as established in a course work evaluation tool approved by the board;

A.3.-B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 18:962 (September 1992), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:1444 (July 2000).

§117. Procedural Requirements

A. In addition to the substantive qualifications specified in §115, to be eligible for a license, a foreign graduate applicant shall satisfy the procedures and requirements for application provided by §§123-129 of this Chapter, and the procedures and requirements for examination required by the board required in §§131-149 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the

Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 26:1444 (July 2000).

Subchapter E. Application

§125. Application Procedure

A. Application for licensure shall be made on original forms supplied by the board.

B. If application is made for licensure on the basis of examination, such examination shall be a national examination approved by the board and administered at an approved testing service.

C. Application for licensure by reciprocity shall comply with the requirements set forth in Subchapter D.

D.-I. ...

J. To assure equal opportunity for all persons, the board will make reasonable accommodations for an applicant for licensure by examination if the applicant has a qualified disability pursuant to applicable law and is approved by the board. A request for a reasonable accommodation, with supporting documentation, must be submitted in writing to the board during the application process and within a reasonable time before administration of the examination for the board to make a decision regarding the request.

K. Every applicant shall personally sign his application for licensure and oath.

L. An application which is incomplete will be closed after six months of inactivity. At the end of this period, any application which is not completed will be considered abandoned and closed by the board and any fees paid shall not be refunded. Should the applicant re-apply after his incomplete application is closed, he shall be required to begin the process anew which includes the payment of the application fee to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 26:1444 (July 2000).

§127. Additional Requirements for Foreign Graduates

A. ...

B. As a condition to the board's consideration of a foreign graduate application, the board must receive a comprehensive credential evaluation certificate from an approved credentialing agency which includes, but is not limited to, the Foreign Credentialing Commission on Physical Therapy (FCCPT).

C. A foreign graduate must comply with §125, and more particularly in complying with §125.I, the board-approved supervisor shall also attend the personal appearance of the applicant with a member of the board, or its designee, as a condition to the board's consideration of his application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 19:208 (February 1993), LR 26:1444 (July 2000).

Subchapter F. Examination

§131. Designation of Examination

A. The examination approved by the board pursuant to R.S. 37:2409 shall be standardized and nationally accepted by the Federation of State Boards of Physical Therapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 26:1445 (July 2000).

§135. Dates, Places of Examination

A. Once the application process is completed, including the payment of fees, the applicant will be notified of his eligibility to schedule the examination at any approved testing service. Within 60 days from the date specified in the eligibility letter, the applicant must sit for the examination. If the examination is not taken within the referenced 60 days, the applicant is removed from the eligibility list and must begin the application process again including the payment of the examination costs to the Federation of State Boards of Physical Therapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 26:1445 (July 2000).

§137. Administration of Examination

A. The board's licensing examination is administered by an approved testing service and is computer based. The testing service is authorized and directed by the board to obtain positive photographic identification from all applicants appearing and properly registered for the examination; to establish and require examinees to observe an appropriate seating arrangement; to provide appropriate instructions for taking the examinations; to fix and signal the time for beginning and ending the examination; to prescribe such additional rules and requirements as are necessary or appropriate to the taking of the examination in the interest of the examinees of the examination process; and to take all necessary and appropriate actions to secure the integrity of the examination process, including, without limitation, excusing an applicant from the examination or changing an applicant's seating location at any time during the examination.

B. An applicant who appears for examination shall:

1. present to the appropriate representative of the testing service positive personal photograph and other identification in the form prescribed;

2. fully and promptly comply with any and all rules, procedures, instructions, directions, or requests made or prescribed by the testing service; and

3. pay the site fee for the examination directly to the testing service at the time of registration with the testing service and in the amount and form prescribed by the testing service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy

Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 26:1445 (July 2000).

§139. Subversion of Examination Process

A.-B. ...

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made or prescribed by the testing service;

2.-10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:664 (July 1991), LR 26:1445 (July 2000).

§141. Finding of Subversion

A. When, during the administration of examination, there exists reasonable cause to believe that an applicant-examinee is engaging, or attempting to engage, in subversion, action shall be taken as deemed necessary or appropriate to terminate such conduct and such conduct shall be reported to the board.

B. ...

C. When the board, has reasonable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant and provide him with an opportunity for hearing pursuant to the Administrative Procedure Act and applicable rules of the board governing administrative hearings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:663 (July 1991), LR 26:1445 (July 2000).

§149. Lost, Stolen or Destroyed Examinations

A. The submission of an application for examination to the board by the applicant shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, committees, employees and agents, and the state of Louisiana to the applicant for the loss, theft or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of scores thereon by the examination service, other than by intentional act, shall be limited exclusively to the refund of the fees paid to the board for the examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:664 (July 1991), LR 26:1445 (July 2000).

Subchapter G. Temporary Permit

§151. Temporary Permits in General

A.-B. ...

C. A holder of a temporary permit pending examination or reexamination, whether a domestic or foreign graduate,

must schedule and sit for the licensure examination prior to the temporary permit expiration date. An extension of the temporary permit will not be issued beyond the expiration date without written proof of the examination having been taken by the applicant.

D. The board may issue a temporary permit for a limited time period to a physical therapist licensed in another state, or a foreign trained physical therapist credentialed in another country, to perform physical therapy services on a patient as part of an educational seminar or athletic event recognized and approved by the board. One or more temporary permits issued to the same person shall not exceed a total of 60 days in a calendar year. Such temporary permit holder shall be obligated to comply with the provisions of the Physical Therapy Practice Act of Louisiana and the board's rules regarding the practice of physical therapy in Louisiana. The temporary permit holder is obligated to obtain the temporary permit prior to his performing physical therapy services pursuant to this paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 26:1445 (July 2000).

§155. Permit Pending Reexamination

A. An applicant who possesses all of the qualifications for licensure prescribed by §107 of this Chapter, except for §107.A.5 and §107.B.5, who has once failed the licensing examination administered by the board, and who has applied to the board within 10 days of receipt of written notice and completed all requirements for examination shall be issued a new temporary permit to be effective for 60 days.

B.-C.1 ...

2. failure of a permit holder to appear for and take the licensing examination within the 60-day permit period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 26:1446 (July 2000).

Subchapter H. License and Permit Issuance, Termination, Renewal and Reinstatement

§161. Issuance of License

A.-B ...

C. A licensee shall not copy or otherwise reproduce his license or allow another person to copy or otherwise reproduce his license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 26:1446 (July 2000).

Subchapter I. Continuing Education

§169. Requirements

A. Minimum Continuing Education Requirements. Licensees shall document successful completion of 1.2 units,

or 12 hours of acceptable continuing education credit during each annual period.

B. Criteria of Acceptability. Acceptable continuing education activities are defined as formally organized and planned instructional experiences of at least two hours duration per sitting; with a qualified instructor or instructors; and with objectives compatible with the professional continuing education needs of the physical therapist or physical therapist assistant. There are two types of approved courses: clinical and administrative. The entirety of the annual requirement may be comprised of approved clinical courses. A maximum of four hours of approved administrative courses will be allowed to be applied to the annual requirement.

1. Continuing Education Activities Specifically Acceptable for License Renewal. Prior board approval is recommended for all activities other than those specified under Subparagraphs a and b. below. However, activities listed in category a below must comply with the criteria of acceptability referenced in §169.B above. Continuing education activities which do not fit into categories in §169.B.1.a. and b. below and have not been pre-approved by the board prior to participation may or may not be acceptable to the board as fulfilling continuing education requirements.

a. APTA (American Physical Therapy Association) accredited courses, LPTA (Louisiana Physical Therapy Association) accredited courses, APTA home study courses, or Louisiana State University Health Sciences Center, School of Physical Therapy, sponsored courses.

B.1.b.-B.3.e. ...

f. continuing education activities less than two consecutive hours in duration, or valued at less than 0.2 units of continuing education credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 26:1446 (July 2000).

Subchapter J. Responsibilities

§177. Committees

A. The board may appoint committees to assist in the review of an applicant's qualifications for licensure; conduct an applicant's interview to deliver a temporary permit; review continuing education requirements and activities; and other purposes deemed necessary by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 26:1446 (July 2000).

§179. Board Meeting Attendance

A. Regularly scheduled meetings of the board are held once each month. board members are required to attend a minimum of 80 percent of the regularly scheduled meetings, as well as special meetings, open forums or hearings which may be scheduled in conjunction with or separate from regularly scheduled meetings. Attendance constitutes active participation in at least 80 percent of the entire meeting. Exceptions may be granted for good cause by the board. Notification of an expected absence shall be submitted to the

board office as soon as possible prior to the commencement of the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 26:1446 (July 2000).

Subpart 2. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§305. Special Definition; Practice of Physical Therapy

A. ...

* * *

Physical Therapy Supportive Personnel

a. ...

b. *Physical Therapist Assistant*Ca person licensed by the board who is a graduate of an associate degree program in physical therapist assisting accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) or was granted licensure pursuant to R.S. 37:2403.D.

c. ...

*Preventative Services*Cthe use of physical therapy knowledge and skills by a physical therapist to provide education or activities in a wellness setting for the purpose of injury prevention, reduction of stress and/or the promotion of fitness, but does not include the administration of physical therapy treatment and, therefore, can be performed without referral or prescription.

*Topical Agents/Aerosols*Ctopical medications or aerosols used in wound care which are obtained over the counter or by physician prescription or order.

*Wound Care and Debridement*Ca physical therapist, physical therapist permittee or student physical therapist may perform wound debridement and wound management that includes, but is not limited to, sharps debridement, debridement with other agents, dry dressings, wet dressings, topical agents including enzymes, and hydrotherapy. A physical therapist assistant, physical therapist assistant permittee or student physical therapist assistant shall not perform sharps debridement. The board's licensees and permittees, as well as students and supportive personnel, shall comply with the supervision requirements set forth in §321.

B. Minimal standards of acceptable and prevailing physical therapy practice shall include, but not be limited to, the American Physical Therapy Association Codes of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 21:1243 (November 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000).

Subchapter B. Practice of Physical Therapy

§307. Prohibitions and Practice

A.-C. ...

D. A licensed physical therapist is authorized to engage in the practice of physical therapy as set forth in the Physical Therapy Practice Act and the board's rules which includes, but is not limited to, the performance of physical therapy

evaluations, consultative services, wound care and debridement, the storage and administration of aerosol and topical agents, the performance of passive manipulation, and preventative services all as more fully defined in §305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000).

Subchapter C. Supervised Practice

§317. General Supervision Requirements for Permittees

A. ...

B. A licensed physical therapist who undertakes to supervise a physical therapist or physical therapist assistant holding a temporary permit under §153 or §155 of these rules shall:

1.-5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:38 (May 1989), LR 17:667 (July 1991), LR 24:41 (January 1998), LR 26:1447 (July 2000).

§321. Supervision Requirements

A.-A.1. ...

a. be on premises daily in each practice setting for at least one half of the physical therapy treatment hours in which the physical therapist assistant is rendering physical therapy treatment;

A.1.b.-C.1. ...

2. A physical therapist aide/technician may assist a physical therapist assistant or a physical therapist assistant permittee in patient care as assigned by the physical therapist who must be continuously, on the premises during the provision of physical therapy services.

D.-E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000).

§323. Documentation Standards

A.-C. ...

D. Documentation by a student must be co-signed by the supervising physical therapist or supervising physical therapist assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:395 (April 1995), LR 26:1447 (July 2000).

Subchapter D. Disciplinary Proceedings

§331. Initiation of Complaints

A. Complaints may be initiated by any person or by the board on its own initiative. A licensee or temporary permittee is obligated to report violations of the Practice Act, board's rules or the American Physical Therapy Association's Codes of Ethics, Guides for Professional Conduct and Standards of Practice. Failure by a licensee or temporary permittee to report such violations to the board subjects the licensee or temporary permittee to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 19:208 (February 1993), LR 26:1448 (July 2000).

Pursuant to the Administrative Procedure Act, if oral presentation or argument is requested by the requisite number of persons or the proper entities, then a public hearing on these matters will be held on May 25, 2000, at 10 a.m. at the office of the Board of Physical Therapy Examiners, 714 East Kaliste Saloom, Suite D2, Lafayette, LA 70508. Please contact the board office at (337) 262-1043 to confirm whether or not the public hearing will be conducted.

Written comments concerning the proposed rules may be directed to this address and made to the attention of Becky Legé, Chairman. Such comments should be submitted no later than the close of business at 5 p.m. on Friday, May 19, 2000.

Becky Legé
Chairman

0007#029

RULE

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

Health Care Facility Sanctions (LAC 50:I.5501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule as authorized by the Health Care Facilities and Services Licensing Enforcement Act, R.S. 40:2199, as enacted by the Legislature in 1997, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Act 1390 of the 1997 Regular Legislative Session established under R.S. 40:2199 the authority for the Department of Health and Hospitals to impose civil fines on those health care facilities determined to be out of compliance with any state or federal law or rule governing the operation and provision of health care services. It is anticipated that the imposition of civil fines will increase compliance with regulations and thereby improve the quality of health care provided to the citizens of this state. Sanctions specified in the rule are applicable to the violation of any state or federal statute, regulation or Department of Health and Hospital's (Department) rule governing health care services; except nursing facility services. Sanctions for the

violation of any state or federal statute, regulation, or department rule governing nursing facilities were previously promulgated.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part I. Administration

Subpart 7. Sanctions

Chapter 55. Health Care Facility Sanctions

§5501. General Provisions

A. Any health care facility listed in Subsection B below found to be in violation of any state or federal statute, regulation, or any Department of Health and Hospitals (Department) rule adopted pursuant to the Administrative Procedure Act governing administration and operation of the facility may be sanctioned as provided in this Chapter.

B. For purposes of this rule, facility refers to any agency licensed by Department of Health and Hospitals as an adult day health care center, substance abuse/addiction treatment facility, ambulatory surgical center, case management agency, urine drug screening clinic, suppliers of portable x-ray services, home health agency, hospice, hospital, or intermediate care facility for the mentally retarded.

C. The opening or operation of a facility without a license or registration shall be a misdemeanor punishable upon conviction by a fine of not less than \$1,000, but not more than \$5,000 (for each offense). Each day's violations shall constitute a separate offense. On learning of such a violation, the department shall refer the facility to the appropriate authorities for prosecution.

D. Any facility found to have a violation that poses a threat to the health, safety, rights, or welfare of a patient or client may be liable for civil fines in addition to any criminal actions which may be brought under [any] other applicable laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2199.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:37 (January 1985), amended LR 11:770 (August 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:189 (February 1992), LR 26:1448 (July 2000).

§5503. Description of Violation and Applicable Civil

Fines

A. "Class A" Violations

1. A "Class A" violation is a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and operation of a facility which results in death or serious harm to a patient or client. Examples of "Class A" violations include, but are not limited to:

a. acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in the death of a patient or client;

b. acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in serious harm to a patient or client.

2. Civil fines for "Class A" violations may not exceed \$2,500 for the first violation and may not exceed \$5,000 per day for repeat violations.

B. "Class B" Violations

1. A Class B violation is a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and operation of a facility is created which

results in the substantial probability of death or serious harm to a patient or client if the condition or occurrence remains uncorrected. Examples of "Class B" violations include, but are not limited to:

- a. medications or treatments improperly administered or withheld;
- b. lack of functioning equipment necessary to care for a patient or client;
- c. failure to maintain emergency equipment in working order;
- d. failure to employ a sufficient number of adequately trained staff to care for residents or clients; and
- e. failure to implement adequate infection control measures.

2. Civil fines for "Class B" violations may not exceed \$1,500 for the first violation and may not exceed \$3,000 per day for repeat violations.

C. "Class C" Violations

1. A "Class C" violation is a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and operation of a facility that creates a potential for harm by directly threatening the health, safety, rights or welfare of a patient or client, including potential for harm created through exploitation. Examples of "Class C" violations include, but are not limited to:

- a. failure to perform treatments as ordered by the physician, including the administration of medications;
- b. improper storage of poisonous substances;
- c. failure to notify physician and family of changes in condition of a patient or client;
- d. failure to maintain equipment in working order;
- e. inadequate supply of needed equipment;
- f. lack of adequately trained staff necessary to meet a patient or client's needs;
- g. failure to adhere to professional standards in giving care to a patient or client; and
- h. failure to protect patients or clients from personal exploitation, including, but not limited to, sexual conduct involving facility staff and a patient or client.

2. Civil fine for "Class C" violations may not exceed \$1,000 for the first violation and may not exceed \$2,000 per day for repeat violations.

D. "Class D" Violations

1. "Class D" violations are violations of rules or regulations related to administrative and reporting requirements that do not directly threaten the health, safety, rights, or welfare of a patient or client. Examples of "Class D" violations include, but are not limited to:

- a. failure to submit written report of accidents;
- b. failure to timely submit a Plan of Correction;
- c. falsification of a record; and
- d. failure to maintain a patient's or client's financial records as required by rules and regulations.

2. Civil fines for "Class D" violations may not exceed \$100 for the first violation and may not exceed \$250 per day for repeat violations.

E. "Class E" Violations

1. "Class E" violations occur when a facility fails to submit a statistical or financial report in a timely manner as required by rule or regulation.

2. Civil fines for "Class E" violations may not exceed \$50 for the first offense and may not exceed \$100 per day for repeat violations.

F. Determination of Amount of Civil Fine

1. In establishing the amount of civil fines to be imposed against the provider, the department will consider:

- a. all relevant aggravating circumstances, including, but not limited to:
 - i. whether the violation resulted from intentional or reckless conduct by the provider;
 - ii. the pervasiveness of the violation;
 - iii. the duration of the violation; and
 - iv. the extent of actual or potential harm to patients or clients;
- b. all relevant mitigating circumstances, including, but not limited to:
 - i. whether the provider had taken steps to prevent the violation; and
 - ii. whether the provider had implemented an effective corporate compliance program prior to the violation;
- c. when the provider had an effective compliance program in place at the time of the violation, the assessed fine will not exceed 50 percent of the maximum potential fine.

2. The aggregate fines assessed for violations identified in any one calendar month may not exceed \$10,000 for "Class A" and "Class B" violations. The aggregate fines assessed for "Class C", "Class D", and "Class E" violations identified in any one calendar month may not exceed \$5,000.

G. The department shall have the authority to determine whether a violation is a repeat violation and to sanction the provider accordingly. A violation is considered a repeat violation if either:

1. the existence of the violation is established as of a particular date and it is one that may be reasonably expected to continue until corrective action is taken. The department may elect to treat the cited continuing violation as a repeat violation subject to appropriate fines for each day following the date on which the initial violation is established until such time as there is evidence that the violation has been corrected; or

2. the existence of a violation is established and another violation that is the same or substantially similar to the cited violation occurs within 18 months. The second and all similar violations occurring within an 18-month time period will be considered repeat violations and sanctioned accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2199.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:37 (January 1985), amended LR 11:770 (August 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:189 (February 1992), LR 26:1448 (July 2000).

§5505. Notice and Appeal Procedure

A. Notice Requirements. When the Department imposes a civil fine on a health care provider, it shall give the provider written notice of the imposition. The notice shall be delivered by certified mail and shall contain the following information:

1. the nature of the violation(s) and whether the violation(s) is classified as an initial or repeat violation;
2. the legal authority for the violation(s);
3. the civil fine assessed for each violation;
4. information that the facility has ten working days from receipt of the notice within which to request an informal reconsideration of the proposed civil fine;
5. information that the facility has 30 working days from receipt of the notice within which to request an administrative appeal of the proposed civil fine. The request for an informal reconsideration does not constitute a request for an administrative appeal, nor does it extend the time limit for requesting an administrative appeal; and
6. information that the department's decision becomes final and no administrative or judicial review may be obtained if the facility fails to timely request an informal reconsideration and/or administrative .

B. Informal Reconsideration. The provider may request an informal reconsideration of the department decision to impose a civil fine.

1. The request must be in writing and received by the department within ten working days of the provider's receipt of the notice of the imposition of the fine.
2. The reconsideration shall be conducted by designated employees of the department who did not participate in the initial decision to recommend imposition of the civil fine.
3. The reconsideration decision shall be based upon all documents and oral testimony furnished by the provider to the department at the time of the informal reconsideration.
4. Correction of the violation cited for imposition of the civil fine shall not be the basis for a reconsideration.
5. The designated employee(s) shall only have the authority to confirm, reduce or rescind the civil fine.
6. The department shall notify the provider of the reconsideration decision within ten working days after the reconsideration is conducted.

C. Administrative Appeal. The provider may request an administrative appeal of the department's decision to impose a civil fine.

1. If a timely request for an administrative appeal is received, the hearing shall be conducted as provided in the Administrative Procedure Act, R.S. 49:950 et seq.
2. An appeal bond shall be posted with the Bureau of Appeals as provided in R.S. 40:2199(D) or the provider may choose to file a devolutive appeal (pay the fine, pending the outcome of all appeals).
3. The provider may request judicial review of the administrative appeal decision as provided in the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2199.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:37 (January 1985), amended LR 11:770 (August 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:189 (February 1992), LR 26:1449 (July 2000).

§5507. Collection of Fines

A. The decision to impose a fine is final when:

1. an administrative appeal is not requested within the specified time limit;

2. the facility admits to the violations and agrees to pay the fine; or
3. the administrative appeal affirms the department finding of violations and the time for seeking judicial review has expired.

B. When Payment of Civil Fines is Final

1. Payment shall be made in full within ten working days of the date the fine becomes final, unless the department allows a payment schedule in light of documented financial hardship.
2. Arrangements for a payment schedule must commence within ten calendar days of the fine becoming final.
3. Interest shall begin to accrue at the current judicial rate beginning ten working days after the fine becomes due.

C. Failure to make Payment of Assessed Fines. When the assessed fine is not received within the prescribed time period, the department shall take the following action.

1. For a Medicaid provider, the full amount with accrued interest shall be deducted from funds otherwise due to the provider as Medicaid reimbursement payment due, whether monthly or quarterly.
2. If the provider is non-Medicaid, civil actions shall be instituted as necessary to collect the fines due.

D. Consideration as an Allowable Cost or Charge to Patient/Client. No provider may claim imposed fines or interest as reimbursable costs to Medicaid or Medicare, nor increase charges to residents, clients or patients as a result of such fines or interest.

E. Disposition of Civil Fines. Civil fines collected shall be deposited in the Health Care Facility Fund maintained by the State Treasury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2199.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:37 (January 1985), amended LR 11:770 (August 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:189 (February 1992), LR 26:1450 (July 2000).

David W. Hood
Secretary

0007#048

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

Minimum Standards/Requirements for Substance Abuse/Addiction Treatment Facilities/Programs (LAC 48:I.Chapter 74)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule governing the requirements for licensing Substance Abuse/Addiction Treatment Facilities/ Programs as authorized by R.S. 40:1058.1-1058.9 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq.

Act 1000 of the 1997 Regular Session of the Legislature authorized the Department of Health and Hospitals to

promulgate rules in accordance with R.S. 40:1058.2. These written rules are the Minimum Licensure Standards for Substance Abuse/Addiction Treatment Facilities. Any facility that presents itself to the public as a provider of services related to the abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem and compulsive gambling, or a combination of the above is required to have a valid and current license prior to admitting any client. Therefore, the Bureau adopts the following licensure standards for all substance abuse/addiction treatment facilities/programs in the state.

Any existing licensed facility shall continue to operate abiding by the last amended rules (published in the *Louisiana Register*, Volume 12, January 1986) for up to one year from adoption of this final rule. Any facility issued an initial new license will be required to comply with all the following licensure standards upon finalization of this rule. Effective one full year from the adoption of this rule, the provisions of this rule shall govern all facilities, regardless of the date of issuance of license.

This rule shall supersede all previous manuals pertaining to this subject, including the standards manual which comprises the Minimum Standards for Licensing Alcoholism and Drug Abuse/Substance Abuse Programs in its entirety as published in January 1977 and January 1986.

TITLE 48

PUBLIC HEALTH-C GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 74. Minimum Standards/Requirements for Abuse/Addiction Treatment Facilities/Programs

Subchapter A. General Provisions

§7401. Definitions and Acronyms

A. The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly states otherwise.

*AADD*Cabuse/addiction disease/disorder.

*Abuse*Cany act or failure to act that caused or may have caused injury to a client knowingly, recklessly, or intentionally, including incitement to act. Injury may include, but is not limited to: physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement.

*Adequate/Sufficient*Creasonable, enough, e.g., personnel to meet the needs of the clients currently enrolled in a specific program.

*Adolescent*Can individual between the ages of 13 and 17 inclusive who has not been emancipated by marriage or judicial decree. Incarcerated adolescents will be in accordance with incarceration guidelines.

*Advertise*Cto solicit or induce to purchase the services provided by a treatment facility.

*Adult*Can individual 18 years of age or older, or an individual under the age of 18 who has been emancipated by marriage or judicial decree. Persons aged 16 and above may voluntarily seek and receive substance abuse services without parental consent.

*At Risk*Cidentification by the Office for Addictive Disorders (OAD) of greater potential for the use/abuse of alcohol and other drugs.

*ATOD*Calcohol, tobacco, and other drugs.

*Board(s)*Centities responsible for licensure/certification for specific professions (e.g., nursing, counselors, social workers, physicians, etc.). State of Louisiana boards are the only accepted credentialing organizations for all personnel.

*Client/Patient/Consumer/Participant*Cany person assigned or accepted for prevention or treatment services furnished by a licensed facility as specified.

*Compulsive Gambling*Cpersistent and recurrent maladaptive gambling behavior that disrupts personal, family, community, or vocational pursuits, and is so designated by a court, or diagnosed by a licensed physician, licensed social worker, licensed psychologist, licensed professional counselor, or advanced practice registered nurse who is certified in mental health.

*Consultation*Cprofessional oversight, advice, or services provided under contract.

*Core Functions*Cthe essential and necessary elements required of every abuse/addiction treatment facility.

a. *Assessment*Ccore function in which a counselor/program identifies and evaluates an individual's strengths, weaknesses, problems, and needs for the development of the treatment plan.

b. *Case Management*Ccore function in which services, agencies, resources, or people are brought together within a planned framework of action toward the achievement of established goals. It may involve liaison activities and collateral contacts with other providers/facilities.

c. *Client Education*Ccore function in which information is provided to individuals and groups concerning alcoholism and other drug abuse, positive lifestyle changes, and the available services and resources.

d. *Client Orientation*Ccore function in which the client is informed regarding:

- i. general nature and goals of the program;
- ii. rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;
- iii. availability of services;
- iv. costs; and
- v. client's rights.

e. *Consultation with Professionals*Ccore function in which functional relationship with counselors and other credentialed health care professionals is provided as required to assure comprehensive quality care for the client.

f. *Counseling (Individual/Group) Services*Ccore function in which appropriate support is provided to the client by those professionals qualified to provide therapeutic services. Special skills are used to assist individuals, families, or groups in achieving objectives through:

- i. exploration of a problem and its ramifications;
- ii. examination of attitudes and feelings;
- iii. consideration of alternative solutions; and
- iv. decision making and problem solving.

g. *Crisis Intervention Services*Ccore function in which appropriate assistance is rendered during emergencies, including 24-hour telephone coverage by a qualified counselor, to provide:

- i. telephone assistance to prevent relapse;
- ii. referral to other services; and
- iii. support during related crises.

h. **Intake**Core function in which information is gathered about a prospective client. Information is given to a prospective client about the treatment facility and facility's treatment and services.

i. **Referral**Core function in which appropriate services not provided by the facility are identified, and client/family is assisted to optimally utilize the available support systems and community resources.

j. **Reports and Record Keeping**Core functions in which results of the assessment and treatment planning are recorded. Written reports, progress notes, client data, discharge summaries and other client-related documentation is recorded in the client record.

k. **Screening**Core function in which the determination is made as to whether a client meets the program's admission criteria. Information such as the person's reason for admission, medical and substance abuse history, and other needed information, is used to determine client's need for treatment, and/or appropriateness of admission.

l. **Treatment Planning**Core function in which the counselor and the client:

- i. identify and rank problems needing resolution;
- ii. establish agreed upon immediate objectives and long-term goals; and
- iii. decide on a treatment process, frequency, and the resources to be utilized.

Core RequirementsAs contained in this Chapter apply to all facilities licensed to provide substance abuse prevention, treatment, or detoxification. Sections 7401-7425 contain core requirements for all facilities and §7427-§7457 contain additional requirements that apply to specific programs.

CounselorQualified professional (QPS or QPC) as described in this document.

Counselor in Training (CIT)Ca person currently registered with Louisiana State Board Certified Substance Abuse Counselor (LSBCSAC) Board and pursuing a course of training in substance abuse counseling including educational hours, practicum hours, and direct, on-site supervision of work experience hours by a facility-employed QPS/QPC.

Departmentthe Louisiana Department of Health and Hospitals (DHH). The following is a list of pertinent sections.

a. **Health Standards Section (HSS)**Section of Bureau of Health Services Financing, DHH that surveys, licenses, and serves as the regulatory body for health care facilities in the state.

b. **Office for Addictive Disorders (OAD)**CDHH office responsible for providing treatment and prevention services related to abuse/addiction disease/disorders.

c. **Office of Public Health (OPH)**CDHH Office that establishes and enforces various legislative health codes.

d. **Office of Planning and Review (OPR)**CDHH office which professionally reviews all floor plans and site plans prior to licensing to assure compliance with state laws and codes.

e. **Program Integrity Section (PRS)**Section of Bureau of Health Services Financing, DHH responsible for investigating fraud and abuse.

Diagnosisthe act of identifying a disease (AA/DD) by a qualified licensed professional (licensed professional counselor, physician, social worker, advanced practice registered nurse, or psychologist) based on comprehensive assessment of physical evidence [if related to diagnosis], signs and symptoms, clinical and psychosocial evidence, and client/family history.

Doctorate-PreparedCan individual who has completed a Doctorate in social work, psychology, or counseling, but has not met the requirements for licensing by the appropriate state board.

ExploitationAct or process to use (either directly or indirectly) the labor or resources of a client for monetary or personal benefit, profit, or gain of another individual or organization.

FacilityProvider of services, including all employees, consultants, managers, owners, and volunteers as well as premises and activities.

Joint VenturesFacilities funded/operated by both public and private sources. Joint ventures are classified as private entities.

LSBCSACLouisiana State Board Certified Substance Abuse Counselor.

Masters-PreparedCan individual who has completed a Masters Degree in social work or counseling, but has not met the requirements for licensing by the appropriate state board.

Medication AdministrationPreparation and giving of legally prescribed individual dose to client; observation and monitoring of client/client response to medication.

Medication DispensingCompounding, packaging, and/or giving of legally prescribed multiple doses to client.

Medication-Prescription (Legend)Medication that requires an order from a licensed practitioner and that can only be dispensed by a pharmacist on the order of a licensed practitioner and requires labeling in accordance with R.S. 37:1161, et seq.

Medication-NonprescriptionMedication which can be purchased over-the-counter without a licensed practitioner's order.

MinorAny person under the age of 18.

Office of State Fire Marshal (OSFM)Establishes and enforces various legislative building codes.

Off-Site OperationEither autonomous or semi-autonomous, that is related to parent facility and located in same or adjacent parish.

On CallImmediately available for telephone consultation and less than one hour from ability to be on duty.

On DutyScheduled, present, and awake at the site to perform job duties.

Primary PreventionFocus on reducing the onset of incidences (rate of occurrences) of alcohol, tobacco, and other drug (ATOD) use by non-users, preventing the development of ATOD use problems, and enhancing individual strengths as an inoculant against ATOD use.

ProgramCa specific group of therapeutic services designed to deliver treatment/prevention to a defined client population.

PublicOwned and operated by federal, state, or local government.

Sexual ExploitationCa pattern, practice, or scheme of conduct that can reasonably be construed as being for the purpose of sexual arousal or gratification or sexual abuse of any person.

Site/PremisesCa single identifiable geographical location owned, leased, or controlled by a facility where any element of treatment is offered or provided. Multiple buildings may be contained in the license only if they are connected by walk-ways and not separated by public street or have different geographical addresses.

StaffCindividuals who provide services for the facility in exchange for money or other compensation, including employees, contract providers, and consultants.

StandardsCpolicies, procedures, rules, and other guidelines (i.e., standards of current practice) contained in this Chapter for the licensing and operation of substance abuse/addiction treatment facilities.

Substance Abuse/Addiction Treatment/Prevention FacilityAny facility which presents itself to the public as a provider of services related to prevention and/or treatment of the abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem or compulsive gambling, or a combination of the above. Facility shall be licensed to provide treatment to clients diagnosed with abuse/addiction disease/disorders (AADD) and provide support and prevention intervention to families, the public, and to those individuals identified as having greater than normal risk for developing abuse/addiction disease/disorders.

SupervisionCoccupational oversight, responsibility and control over employee(s)/service delivery by critically watching, monitoring, and providing direction.

Treatment LevelCa group of treatments/services designed to positively impact a specific type/degree of abuse/addiction.

Unethical ConductCconduct prohibited by the ethical standards adopted by DHH, state or national professional organizations or by a state licensing agency.

Unprofessional ConductAny act or omission that violates commonly accepted standards of behavior for individuals or organizations.

Variance or WaiverCadministrative decision by HSS or DHH secretary or designated personnel qualified to make the decision that failure (for limited time period), to meet a Minimum Standard cannot potentially cause harm to any client/citizen or interfere with quality treatment. Facility shall post all variances/waivers in conspicuous place.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:1451 (July 2000).

§7403. Licensing

A. General. Any facility which presents itself to the public as a provider of services related to the prevention

and/or treatment for abuse/addiction of controlled dangerous substances, drugs or inhalants, alcohol, problem or compulsive gambling, or a combination of the above is required to have a valid and current license prior to admitting any client.

B. Compliance. Each licensed facility must comply with the minimum requirements in order to remain licensed. In addition, each facility is required to have a copy of the minimum standards on-site, and all administrative and professional staff should be familiar with contents of this rule.

C. Exemptions

1. Hospitals, nursing homes, and federally-owned facilities are exempt from licensure.

2. State facilities are exempt from the following general requirements:

- a. licensure fees;
- b. budgetary/audit requirements;
- c. disclosure of ownership forms;
- d. planning, location requirements;
- e. governing body regulations; and
- f. liability insurance.

D. Adherence Requirements. Each facility shall adhere to requirements throughout the period of licensure. Any period of non-compliance may result in sanctions, denials, or corrective action.

E. Variance. Any variance granted by HSS shall:

1. be in writing;
2. cannot be retroactive;
3. be granted for a specific period of time, but less than one year; and
4. be listed on the facility license.

F. Off-sites. Related facilities may share a name with the primary facility, if a geographic indicator is added to the end of the facility name. All facilities must have a separate license from that issued to the parent facility.

1. Additional locations shall operate in the same or adjacent parish and shall meet the following conditions:

- a. OSFM/OPH approval;
- b. adequate professional staff to comply with all standards;
- c. adequate administrative and support staff to comply with all standards;
- d. personnel records may be housed at parent facility;
- e. client records may be housed at parent facility;
- f. telephone system to forward calls to parent facility;
- g. initial survey is required prior to opening, but annual/renewal survey may be by attestation.

2. License to operate at off-site location will be issued from HSS when the following criteria are met:

- a. adequate professional staff to operate at two or more locations;
- b. identified need for services by OAD; and
- c. submission of request for opening off-site and completed application and payment of applicable fees.

3. Treatment services shall be equal at all locations, however, off-site facilities may refer clients to parent facility to supplement core functions only when client is not expected to endure excessive expense or hardship to obtain required services.

4. Twenty-four hour off-site facilities shall meet and maintain compliance with all requirements for which the facility license is issued.

5. Exception. Primary Prevention Programs may provide educational services at various public facilities, provided that the primary site is licensed.

G License Designation. A facility shall have written notification of restrictions, limitations, and services available to the public, community, clients, and visitors.

1. Twenty-Four-Hour Facilities. (May be designated for adults, adolescent, or parents/dependent children.)

a. Detoxification Facilities

i. Medically Supported

ii. Non-medical (Social)

b. Primary Treatment Facilities

i. In-patient Treatment

ii. Residential Treatment

c. Community-Based Treatment Facilities

i. Halfway House

ii. Three Quarter House

iii. Therapeutic Community (Long Term Residential)

2. Outpatient Facilities

a. Outpatient Counseling

b. Intensive Outpatient Treatment

c. Opiate Addiction Treatment

3. Primary Prevention Programs (Non-treatment Designation)

a. Youth Based Programs

b. Community Education Only

4. Additional Designations (Conjointly approved by OAD/HSS in writing)

H. Services. The services shall be provided in accordance with license designation.

1. Any additional services provided on the premises shall be identifiable to the public as separate and apart from the licensed program.

2. Clients/families must be notified in writing upon admission when client will be housed in any building not covered in the license issued by DHH/HSS.

I. License Types

1. Full. A full license is issued only to those agencies that are in compliance with the minimum standards and all other licensure requirements. The license is valid until the date of expiration unless revoked or suspended prior to the date of expiration, or denied renewal.

2. Provisional. A provisional license is issued to those facilities that are not in compliance with the minimum standards when the termination of a license will occur if systemic changes fail to correct identified problems, provided that cited deficiencies are not detrimental to the health and safety of clients. A provisional license is valid for six months or until a designated termination date. Any license involved in an appeal process is automatically considered provisional.

J. Display of License. The current license shall be displayed on-site at each facility in full view of all clients and/or visitors. Any license issued by DHH supersedes previously issued licenses issued for the facility to operate under this chapter and deems those previously issued as invalid. Any facility displaying and/or using an invalid or altered license will be sanctioned.

K. Notification of Change Requirements. Any change listed below that is not reported in writing to HSS within 10 days is delinquent and subject to sanction. Written approval of changes by DHH is required to remain in compliance with licensure standards.

1. Change of Ownership

a. Include a copy of bill of sale, licensure fee, disclosure of ownership form, new application form, and information about relocation, name change, etc.

b. License is nontransferrable; new owners must apply for a new license.

2. New Construction and Renovations. All plans must have prior approval of the Office for State Fire Marshal and DHH Office of Planning and Review.

3. Address Change. Change of address requires issuance of replacement license. Prior approval is required, and is based on submitting requested information to HSS.

4. Change of Services. An application packet appropriate to the new service is required. An initial survey may be required prior to issuance of new license at the discretion of HSS.

5. Hours of Operation. Written approval by HSS is required in advance of the change.

L. Cessation of Business. If at any time the facility decides to cease operations then the facility is responsible for surrendering the license and notifying HSS of the date of cessation of services and the permanent location of the records.

1. All active clients and pertinent information shall be transferred/referred to appropriate treatment facilities.

2. Written notification with license shall be sent to HSS within five working days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:1453 (July 2000).

§7405. Fees

A. General. All fees must be submitted to DHH in the form of a company or certified check or money order, and is to be made payable to the Department of Health and Hospitals (DHH). All fees are nonrefundable and nontransferable.

1. Fee Amounts. The current fee schedule is available upon request.

2. Initial Application. The fee for the initial application process and initial licensure shall be submitted prior to consideration of the license application.

3. Annual Renewal. The fee is payable in advance of issuance of a renewal license.

4. Change Fees. A fee must accompany any request requiring the issuance of a replacement license.

B. Late Fees. Any fee for renewal, or any other fee, is delinquent after the due date and an additional fee shall be assessed beginning on the day after the date due. No license will be issued until all applicable fees are paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:1454 (July 2000).

§7407. Initial Licensure

A. Application Procedure. This process assures that the facility is capable of organizing, planning and carrying out an operation to provide the 12 core functions of counseling and other therapeutic services as designated on license. The entire application process must be completed within 90 days from the date of the original submission of the application in order to be approved. A completed application packet shall contain:

1. letter of intent that includes:
 - a. proposed date of operation;
 - b. program mission;
 - c. program description;
2. written Plan of Professional Services including a list of the 12 core functions of AA/DD treatment and a facility plan to furnish those services;
3. current application, disclosure forms and other forms with application fee;
4. written approval from the Office of Planning and Review for the proposed facility, if required;
5. a letter-size sketch of the floor plan;
6. jurisdictional approvals as required by:
 - a. Office of Public Health;
 - b. Office of State Fire Marshal;
 - c. municipal zoning and other approvals as applicable;
 - d. others, if necessary, (e.g., State Methadone Authority);
7. proof of general and professional liability insurance of at least \$500,000;
8. governing body information including names, addresses, telephone numbers of each member;
9. disclosure in writing of any financial and/or familial relationship with any other entity receiving third-party payor funds, or any entity which has previously been licensed in Louisiana;
10. organizational chart for all professional level personnel.

B. Exceptions. If a requirement is not applicable to the program being licensed, the applicant may list and mark "not applicable." HSS can assist by telephone, if additional answers are needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:1455 (July 2000).

§7409. Survey

A. General

1. All surveys shall be unannounced and may be in conjunction with other agency personnel and/or personnel from other local, state or federal agencies.

2. Any facility that cannot be surveyed when scheduled will be sanctioned unless prior arrangements are approved by HSS and will not be licensed until all fines are paid.

B. Initial

1. On-site survey of all aspects of the operation is required prior to the admission of any client for treatment at the facility.

2. DHH shall determine whether the facility is capable of becoming operational as indicated by compliance with all accepted standards of completed preparations and employment of all personnel, as well as securing all jurisdictional approvals.

3. Facility must become fully prepared for survey within six months of completion of application process.

4. Facility shall be staffed to admit clients and all personnel shall have received orientation.

5. Facility shall be fully prepared to begin admitting clients before requesting an on-site survey.

6. Facility shall meet all requirements of the Minimum Standards.

a. If survey findings indicate that facility has minor violations, a corrective plan of action shall be submitted before issuance of a license.

b. All client oriented corrections shall be completed before DHH issues a license.

c. All unlicensed direct care workers must have criminal history checks with appropriate action taken prior to initial survey.

7. Any facility that is not recommended for licensure following the on-site survey shall be required to submit another application fee and application packet for review prior to requesting a subsequent on-site survey.

8. No client may be admitted until the survey has been completed and facility has been notified that it is approved to admit clients. Health Standards surveyor shall notify the facility verbally as to whether it is appropriate to begin admitting clients or to await further direction by DHH.

C. Annual Survey. An on-site survey of all aspects of the facility is performed annually to assure and promote continuous adherence to standards.

D. Complaint Investigations. DHH shall determine the type and extent of investigation to be made in response to complaints in accordance with R.S. 40: 2009.13, et seq.

1. May be an internal investigation with a report submitted to DHH/HSS.

2. May be on-site focused or complete survey by DHH/OAD and/or DHH/HSS and other local, federal, and state agencies as appropriate.

E. Follow-up Surveys. On-site visit, or request for submission of documentation for desk review to assure that corrective actions have been completed as alleged in the submitted plan of corrections and/or to assure continued compliance between surveys.

F. Survey Results. All survey results become available for public inspection 60 days after the survey or on the date that an acceptable plan of correction is received from the

facility, whichever is sooner. If violations of Minimum Standards are:

1. minor and do not directly involve client care, the facility may be allowed up to 60 days to make all necessary corrections;

2. not minor or if they directly affect client care, adverse action shall be implemented.

G Plan of Corrections. Written allegations of correction are submitted from facility to HSS to describe actions taken by the facility in response to cited violations.

1. Required Components/Elements

a. Actions taken to correct any problems caused by deficient practice directed to a specific client.

b. Actions taken to identify other clients who may also have been affected by deficient practice, and to assure that corrective action will have positive impact for all clients.

c. Systemic changes made to insure that deficient practice will not recur.

d. Quality assurance plan developed to monitor to prevent recurrence.

2. Miscellaneous

a. All components of the corrective action plan must be specific and realistic, including the dates of completion.

b. Plan must be submitted as directed by HSS staff, usually within 10 days of the date of the survey, or the provider may be sanctioned.

c. Corrections must be completed within 60 days of survey unless directed to correct in less time due to danger or potential danger to clients/staff.

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§7411. Annual License Renewal

A. License must be renewed at least annually. It is the responsibility of the facility to:

1. request a renewal packet from HSS if one is not received at least 45 days prior to license expiration;

2. complete all forms and return to HSS at least 30 days prior to license expiration;

3. submit annual licensure fee, if required, with renewal packet; and

4. submit proof of insurance with renewal packet.

B. Annual license renewal for Primary Prevention programs may be accomplished by attestation provided that:

1. the facility has had three consecutive years of deficiency-free surveys; and

2. Office for Addictive Disorders recommends attestation in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by

the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:1456 (July 2000).

§7413. Adverse Actions

A. General. DHH reserves the right to suspend, deny (initial or renewal), or revoke any license at the discretion of the secretary or his/her designee. Facility owners and staff shall be referred to other entities, such as boards or state or federal enforcement agencies, when there is suspicion of illegal, unprofessional or unethical behavior. Any involuntary termination of licensure or voluntary termination to avoid adverse action automatically disqualifies that facility and those associated with the facility from applying for licensure for a period of at least one year.

B. Denial of Initial License. Denial of initial licensure shall be in accordance with R.S. 40:1058.5(A). Additionally, DHH shall not accept application for an additional facility with common owners, managers, or staff unless the original facility is in full compliance for one year without interruption and is not under investigation by any other agency.

C. Revocation or Denial of Renewal of License. License may be revoked or denied for the following nonexclusive reasons: [See also R.S. 40:1058.5(B)]

1. cruelty or indifference to the welfare of the clients;

2. misappropriation or conversion of the property of the clients;

3. violation of any provision of this part or of the minimum standards, rules, and regulations, or orders promulgated hereunder:

a. serving more clients in the facility than authorized by license;

b. repeated failure to adhere to rules and regulations that resulted in issuance of a provisional license or other sanction;

c. serious violation of standards or current professional standards of practice;

d. failure to submit corrective action plans for identified violations;

e. reasonable cause to suspect that client health/safety is jeopardized;

f. reliable evidence that the facility:

i. falsified records;

ii. failed to provide optimum therapy in accordance with current standards of practice; or

iii. has bribed, solicited or harassed any person to use the services of any particular facility;

g. failure to submit required fees in a timely manner;

h. failure to cooperate with survey/investigation by DHH/authorized agencies;

i. failure to employ and utilize qualified professionals;

4. permitting, aiding, or abetting the unlawful, illicit, or unauthorized use of drugs or alcohol within the facility;

5. conviction or plea of nolle contendere by the applicant for a felony. If the applicant is an agency, the head of that agency must be free of such conviction. If a subordinate employee is convicted of a felony, the matter must be handled administratively to the satisfaction of HSS;

6. documented information of past or present conduct or practices of the facility which are detrimental to the welfare of the clients.

D. Provisional License. As described in §7403.

E. Appeals

1. Notice. HHS shall give at least 30 days notice of denial of renewal or revocation of license unless DHH determines that the health and/or safety of clients is in jeopardy. In the event that DHH determines that the health and/or safety of clients is in jeopardy, clients will be removed from the facility immediately. No advance notice will be provided when health and/or safety are involved, and the facility may appeal within 30 days following the removal.

2. Administrative Reconsideration. Request must be submitted in writing to HSS (designee of DHH secretary) within 15 days of receipt of the notice of denial of renewal or revocation.

3. Administrative Appeal. Request must be submitted in writing to DHH, Office of the Secretary within 30 days of receipt of the notice of denial of renewal or revocation. Request for administrative reconsideration does not affect time frames for requesting administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

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Subchapter B. Core Requirements for All Programs

§7417. Organization and Administration

A. Administration Quality and Adequacy

1. Facility administration shall be qualified and adequate to assure adherence to all licensing standards.

2. Qualifications shall be determined by the complexity of the services being provided.

3. Facility compliance with licensing standards shall determine adequacy of available administrative oversight.

4. Facilities shall be organized so that administrative personnel do not perform any programmatic duties and/or make clinical decisions, unless licensed/certified to make clinical decisions.

B. Administrative Records. Record keeping shall be in accordance with accepted standards to assure the development and implementation of facility specific policies and procedures to adhere to all licensing standards.

1. Personnel (staff providing direct care to clients)

- Annual health screens in accordance with OPH guidelines (includes Dietary workers when applicable).

- Actual hours of work.

- Orientation/training/in-services.

- Disciplinary actions.

- Results of criminal background checks on all direct care staff.

- Verification of professional credentials, licensure/certification and renewals.

- Job descriptions/Performance expectations.

2. Administrative Operations

- Organizational chart.

- Mission and description of services.

- Payment methods in accordance with Wage and Hour Board.

- Proof of general and professional liability insurance in the amount of at least \$500,000.

- Projected plan of operations based on the findings of the facility specific to continuous improvement program.

- Written agreements with other entities to assure adherence to licensing standards and continuity of care.

- Written designation of facility administrator and clinical services director. Facility may have other job titles as desired, however, the above two positions are required for each facility.

3. Governing Body. All private providers shall have an identifiable governing body composed of adults who have legal authority over the policies and activities of the facility. Responsibilities include:

- governing of all facility operations;

- documentation to identify all members including name, address, telephone numbers with current updates as indicated;

- maintenance of written minutes of all meetings of the governing body, including, but not limited to, date, time, location, participants, topics discussed, decisions reached, and actions taken, committee reports, and any other pertinent information;

- annual documented review and appropriate actions on all policies, procedures, facility rules, goals, grievances, budget, internal and external evaluations, (including all survey findings);

- codes of conduct to ensure professional, ethical and legal operations;

- facility practices that ensure employees have necessary administrative support to provide therapeutic milieu for clients.

C. Ownership. Type of ownership must be identified.

- Public Government entities (local, state, and federal)

- Private Bfor profit or nonprofit:

- individual;

- corporation (individual, group of individuals, or publicly-owned stock);

- church;

- council/organization;

- joint ventures/contractors.

D. Facility Protocols. Each facility shall establish facility-specific, written policy and implement such policy in these areas.

- General

- Procedures to ensure the health, safety, and well-being of clients.

- Procedures to ensure that clients receive optimum treatment in order to achieve recovery.

- Criteria to assure access to care without over-utilization of services.

- Protocols to assure uniform and quality assessment, diagnosis, evaluation, and referral to appropriate level of care.

- Procedures to assure operational capability and compliance.

f. Procedures to assure that only qualified personnel are providing care within the scope of the core functions of substance abuse treatment.

g. Procedures to assure that delivery of services shall be cost-effective and in conformity with current standards of practice.

h. Procedures to assure confidentiality of client records.

2. Continuous Quality Improvement Program (CQIP). Facility shall:

a. have ongoing programs to assure that the overall function of the clinic is in compliance with federal, state, and local laws, and is meeting the needs of the citizens of the area, as well as attaining the goals and objectives developed from the mission statement established by the facility;

b. focus on improving patient outcomes and patient satisfaction;

c. have objective measures to allow tracking of performance over time to ensure that improvements are sustained;

d. develop/adopt quality indicators that are predictive of desired outcomes or are outcomes that can be measured, analyzed and tracked;

e. identify its own measure of performance for the activities it identifies as priorities in quality assessment and performance improvement strategy;

f. conduct distinct successful improvement activities proportionately to the scope and complexity of the clinic operations;

g. immediately correct problems that are identified through its quality assessment and improvement program that actually or potentially affect the health and safety of the clients;

h. make an aggressive and continuous effort to improve overall performance of clinic and personnel;

i. use the process of improvement (identification of client care and service components; application of performance measures; and continuous use of a method of data collection and evaluation) to identify or trigger further opportunities for improvement; and

j. use annual internal evaluation procedure to collect necessary data to formulate plan and quarterly meetings of staff committee (at least three individuals) to assess and choose which CQIP activities are necessary and set goals for the quarter, to evaluate the activities of the previous quarter, and to implement immediately any changes that would protect the clients from potential harm or injury.

3. Research or Non-traditional Treatment Modalities. Approval for exceptional procedures, treatment modalities, etc., shall be approved in accordance with federal and state guidelines.

4. Operational Requirements. The facility shall:

a. be fully operational for the business of providing substance abuse/addiction prevention/treatment during normal business hours and after hours as indicated/approved on original application or change notification approval;

b. be available as a community resource, and maintain current schedule of area support groups;

c. share space, telephones, or personnel with other entities only in compliance with R.S. 40:2007;

d. have active clients who are receiving services at the time of any survey after the initial survey;

e. be able to accept referrals during hours of operation as specified on licensure application;

f. utilize staff to provide services based on the needs of their current caseload of clients;

g. have required staff on duty at all times during operational hours.

E. Required Facility Reporting. The facility director shall verbally/facsimile report these incidents to HSS within 24 hours of discovery. State-operated facilities are also required to follow OAD reporting policy:

1. fire and/or natural disasters;

2. any substantial disruption of program operation;

3. any death or serious injury of a client that may potentially be related to program activities; and

4. violations of laws, rules, and professional and ethical codes of conduct by facility personnel/volunteers.

F. Required Postings. The facility shall post a legible copy of the following documents in full view of clients, visitors, and employees:

1. the age appropriate Client Bill of Rights;

2. escape routes;

3. facility specific rules and responsibilities and grievance procedure;

4. current license and variances;

5. current activity schedule;

6. current survey findings.

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§7419. Personnel Requirements

A. Standards of Conduct

1. The facility, and all personnel in accordance within individual professional licensure, shall:

a. protect the health, safety, rights, and welfare of clients;

b. provide services designated on license;

c. adhere to all applicable laws, regulations, policies, and procedures;

d. maintain required licenses, permits and credentials; and

e. adhere to professional and ethical codes of conduct.

2. Neither the facility nor any of its personnel shall:

a. commit an illegal, unprofessional or unethical act;

b. assist or knowingly allow another person to commit an illegal, unprofessional, or unethical act;

c. knowingly provide false or misleading information;

d. omit significant information from required reports and records or interfere with their preservation;

e. retaliate against anyone who reports a violation or cooperates during a review, inspection, investigation, hearings or related activity; or

f. interfere with department reviews, inspections, investigations, hearings, or related activity. This includes taking action to discourage or prevent someone else from cooperating with the activity.

B. General

1. Referrals. Facility personnel shall report violations of laws, rules, and professional and ethical codes of conduct to HSS and to appropriate licensing board when applicable. The facility shall maintain records and have written policies governing staff conduct and reporting procedures that comply with this §7419.

2. Staffing. A facility shall employ sufficient and qualified staff to meet the requirements and responsibilities required by licensure as well as the needs of each client being served.

3. Qualifying Experience. Any experience used to qualify for any position must be counted by using one year equals 12 months of full-time work. At no time will any professional staff be considered full time at two facilities.

4. Caseloads. All counselors (including full time, part time, and those who also have other duties) must have caseloads appropriate to available time, which shall be determined by the needs of the active clients and the level of treatment being provided.

5. Multiple Positions. A person may hold more than one position within the facility if that person is qualified to function in both capacities, and the required hours for each job are separate and apart for each position.

6. Credential Verification. Facility administration is responsible for assuring that all credentials are from accredited institutions, legal, and verified to deter the fraudulent use of credentials.

7. Clinical Services Director. A qualified professional supervisor or qualified professional counselor shall be designated, in writing, as responsible for supervising all treatment services and programs.

8. Contract Staff Services. Formal written agreements with professionals or other entities to provide services which may or may not be directly offered by facility staff are required for contract services. Both parties shall review and document review of each agreement annually.

C. Training

1. Orientation. Each employee shall complete at least eight hours of orientation prior to providing direct client care/contact. The content of the basic orientation provided to all employees at the time of employment with annual review shall include the following:

- a. policies/procedures and objectives of the facility;
- b. duties and responsibilities of the employee;
- c. organizational/reporting relationships;
- d. ethics and confidentiality;
- e. client's rights;
- f. standards of conduct required by the facility;
- g. information on the disease process and expected behaviors of clients;
- h. emergency procedures including disaster plan, evacuation;
- i. principals and practices of maintaining a clean, healthy and safe environment;
- j. additional information as appropriate to job duties, type of client, etc;
- k. universal precautions;

- l. violent behavior in the workplace;
- m. abuse/neglect;
- n. overview of Louisiana licensing standards;
- o. prevention overview; and
- p. basic emergency care of ill or injured clients until trained personnel can arrive.

2. In-Service. This educational offering shall assist the direct care/contact workers to provide current treatment modalities, and serve as refresher for subjects covered in orientation. Documentation of attendance for at least three hours per quarter is required. Additional educational programs are encouraged.

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§7421. Personnel Qualifications/Responsibilities

A. Qualified Professional Supervisor (QPS)

1. Qualifications

a. The following professionals who are currently registered with their respective Louisiana board:

- i. licensed psychologist;
- ii. licensed clinical social worker;
- iii. licensed professional counselor.

b. The following professionals who are currently registered with their respective Louisiana boards and who can demonstrate two years of professional level counseling experience, and one year of professional level substance abuse counseling, or 90 clock hours (six semester hours) of substance abuse training post-certification, including the twelve core functions from an accredited college or university, or an educational provider approved by DHH may function as QPS. Documentation shall be available from the facility upon request. The professionals eligible to become QPS's are listed below:

- i. board certified substance abuse counselor (BCSAC);
- ii. licensed physician (MD);
- iii. registered nurse (RN);
- iv. board-certified compulsive gambling counselor (BCCGC);
- v. Masters-prepared social worker/counselor;
- vi. Masters-prepared counselor under the supervision of a licensed psychologist, licensed professional counselor (LPC), or licensed clinical social worker (LCSW).

2. Responsibilities. The QPS shall:

- a. provide direct client care utilizing the twelve core functions of the substance abuse counseling and/or specific functions related to professional license;
- b. serve as resource person for other professionals counseling substance abuse clients;
- c. attend and participate in care conferences, treatment planning activities, and discharge planning related to primary caseload and/or clients of professionals being supervised;

d. provide on-site and direct professional supervision of treatment and any counselor-in-training, including but not limited to, activities such as individual/group counseling, or educational presentations;

e. provide oversight and supervision of such activities as recreation, art/music, or vocational education, to assure compliance with accepted standards of practice;

f. function as patient advocate in all treatment decisions affecting the client;

g. be designated as the clinical services supervisor unless other QPSs are employed and available at the facility) and/or actively supervise QPC if program does not require full-time supervisor;

h. assure that facility adheres to rules and regulations regarding all substance abuse treatment, e.g., group size, caseload, referrals, etc.;

i. provide only those services which are appropriate to their profession.

B. Qualified Professional Counselor (QPC)

1. Qualifications. A QPC is a professional who is employed in the treatment of abuse/addiction disorders and who is currently licensed/certified by the appropriate Louisiana board as one of the following professionals:

a. board certified substance abuse counselor (BCSAC);

b. Licensed clinical social worker (LCSW);

c. licensed professional counselor (LPC);

d. licensed psychologist;

e. licensed physician (MD);

f. registered nurse (RN);

g. board-certified compulsive gambling counselor (BCCGC);

h. Masters-prepared social worker/counselor;

i. Masters-prepared counselor under the supervision of a licensed psychologist, licensed professional counselor (LPC), or licensed clinical social worker (LCSW).

2. Responsibilities. The QPC shall:

a. provide direct care to clients utilizing the 12 core functions of substance abuse counseling and may serve as primary counselor to specified caseload;

b. serve as resource person for other professionals and paraprofessionals in their specific area of expertise;

c. attend and participate in client care conferences, treatment planning activities, and discharge planning;

d. provide on-site and direct professional supervision of any paraprofessional or inexperienced professional;

e. function as the patient advocate in all treatment decisions affecting the client;

f. prepare and write notes/other documents related to client recovery, e.g. assessment, progress notes, treatment plans, etc.; and

g. provide only those services that are appropriate to their profession.

C. Board Certified Prevention Specialist (BCPS)

1. Qualifications. Prevention Specialists shall be certified in accordance with requirements promulgated by the LSBCSAC.

2. Responsibilities. Duties include:

a. program coordination;

b. education and training;

c. community organization;

d. public policy;

e. planning and evaluation; and

f. professional responsibility.

D. Counselor in Training (CIT)

1. Qualifications:

a. registered with the professional licensing board and in good standing at all times;

b. actively pursuing certification at all times; and

c. designated in writing as CIT by the facility and performing according to a written training plan under the auspices of the facility.

2. Responsibilities. The CIT shall:

a. provide direct client care utilizing the core functions of substance abuse counseling only under the on-site supervision of facility employed QPS/QPC;

b. not identify nor represent himself/herself as counselor;

c. not perform any duties of counselor independently, without on-site supervision of facility employed QPS/QPC;

d. never identify themselves as a consultant to any substance abuse facility.

3. Exceptions. CITs who have documented evidence of at least 40 hours of training (including orientation and the 12 core functions of substance abuse counseling) and 120 hours of direct supervision by QPS/QPC may perform counseling functions when the QPS/QPC is on duty or on-call and available for immediate assistance if needed.

E. Personnel in Training. Includes all students, persons working toward professional level licensing or certification in any profession listed in §7421 B, C, D, or F.

1. Qualifications:

a. current registration with appropriate LA Board when required, and in good standing at all times;

b. actively pursuing professional level preparations at all times; and

c. designated in writing by facility, and performing in accordance with a written training plan under the auspices of the facility.

2. Responsibilities. Duties include:

a. providing direct client care utilizing the standards developed by the professional board, and only under the direct supervision of the appropriate QPC or QPS;

b. providing only those services in which the student has been properly trained and deemed competent to perform by the supervising QPC or QPS.

F. Support Professional Staff. Support professional staff includes employees, consultants, contract employees, or volunteers who provide services in the capacity of their profession, including but not limited to, pharmacists, dietitians, physicians, nurses, social workers, teachers, counselors, or psychologists.

1. Qualifications:

a. currently unencumbered license/registration with appropriate Louisiana Board (may be approved specifically by licensing Board, if encumbered); and

b. a professional as recognized by the certifying entity, rather than assistant, aide, technician, associate, etc.

2. Responsibilities. Duties include:

a. those within their respective board's delineated scope of practice only.

b. in-service, staff training, consultation to paraprofessionals and professionals and direct supervision, as needed to improve the overall quality of care being provided.

G. Volunteer

1. Qualifications. Volunteers must be:
 - a. appropriately screened and supervised to protect clients and staff;
 - b. oriented to facility, job duties, other pertinent information;
 - c. appropriately trained to meet requirements of duties assigned;
 - d. given a job description or written agreement; and
 - e. identified as volunteers.
2. Responsibilities. Duties include:
 - a. direct care activities only when qualified facility personnel present;
 - b. errands, recreational activities;
 - c. individual assistance to support services; and
 - d. other appropriately assigned duties.

H. Medical Director. Every facility licensed shall have a designated medical director. Primary prevention programs are not required to designate a medical director.

1. Qualifications. The medical director shall have a current, valid license to practice medicine in Louisiana.
2. Responsibilities. Medical director shall:
 - a. provide services required by facility to meet the Standards;
 - b. provide oversight for facility policy/procedure and staff regarding the medical needs of the clients being served in accordance with the current standards of medical practice; and
 - c. retain ultimate responsibility for directing the specific course of medical treatment for all clients.

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§7423. Health and Safety

A. Infection Control

1. Facility shall protect staff, clients, and visitors from the potential/actual harm of infectious disease by the following policies and procedures.
 - a. Universal Precautions. Education, practice, and implementation shall be applied.
 - b. Infection control program to report, evaluate, and maintain documentation pertaining to the spread of infectious disease, including data collection and analysis, corrective actions, and assignment of responsibility to designated medical staff person.
 - c. Strict adherence to all sanitation requirements.
2. Facility shall establish and maintain a clean and neat environment by the implementation of the following housekeeping policies and procedures.
 - a. Supplies/equipment shall be available to staff/clients.

b. Consistent and constant monitoring and cleaning of all areas of the facility shall be practiced.

c. Facility may contract for services necessary to maintain a clean and neat environment.

d. Directions shall be posted for sanitizing both kitchen and bathroom areas.

3. Domestic animals shall be:

- a. properly vaccinated; and
- b. managed in a way consistent with the goals of the program and the needs of the client, including those with allergies.

B. Sanitation

1. Food and waste shall be stored, handled, and removed in a way that will not spread disease, cause odor, or provide a breeding place for pests.

2. If there is evidence of pests, the facility shall contract for pest control.

3. Poisonous, toxic and flammable materials shall be labeled, stored, and used safely.

C. Safety

1. Environmental

a. The entire facility, including grounds, buildings, furniture, appliances, and equipment, shall be structurally sound, in good repair, clean, and free from health and safety hazards.

b. The facility shall comply with Americans with Disabilities Act (ADA).

c. The environment shall enhance client dignity and confidentiality.

d. The facility shall have adequate space, furniture, and supplies for the services described in the program description, including:

i. an adequate number of accessible drinking units;

ii. an adequate number of sanitized non-disposable or disposable hot/cold cups;

iii. clean, comfortable and appropriately furnished areas for various activities.

e. The facility shall have private counseling space. Staff shall have office space that is not required for other simultaneous activities.

f. The facility shall prohibit weapons of any kind on-site.

2. Evacuation/First Aid. The facility shall respond effectively during a fire or other emergency. Every program shall:

a. have emergency evacuation procedures that include provisions for the handicapped;

b. hold fire drills on each shift at least quarterly and correct identified problems promptly;

c. be able to clear the building safely and in a timely manner at all times;

d. post exit diagrams conspicuously throughout the program site;

e. post emergency numbers by all phones; and

f. have adequate first aid supplies that are visible and easy to access at all times.

3. Facility shall take all precautions possible to protect the staff, clients and visitors from accidents of any nature.

4. Facility shall have a written facility specific disaster plan, and staff shall be familiar with the contents of the plan as well as the location.

D. Emergency Care. Outpatient, Prevention and Education Programs may be exempt from these requirements if access to Emergency Medical Services is less than 10 minutes.

1. At least one employee on site at each facility shall be certified in cardiopulmonary resuscitation and airway obstruction treatment and have training in dealing with out-of-hospital accidents and medical emergencies until emergency medical personnel and equipment can arrive at facility.

2. Facilities that have licensed nurses/physicians on duty during all hours of operation are exempt from this requirement.

E. Physical Plant Requirements

1. Required Inspections

a. The facility shall pass all required inspections and keep a current file of reports and other documentation needed to demonstrate compliance with applicable laws and regulations. The inspections must be signed, dated, and free of any outstanding corrective actions. The following inspections are required:

- i. annual fire marshal inspection;
- ii. annual inspection of the alarm system by a licensed contractor;
- iii. quarterly fire alarm system test by facility staff;
- iv. annual kitchen inspection by Office of Public Health;
- v. gas pipe pressure test once every three years by the local gas company or a licensed plumber;
- vi. annual inspection and maintenance of fire extinguishers by personnel licensed or certified to perform those duties; and
- vii. regular inspections of elevators.

b. The following documentation shall be on file in facility:

- i. certificate of occupancy as required by local authorities;
- ii. DHH approval of the water supply/system;
- iii. DHH approval of the sewage system; and
- iv. documentation that the liquefied petroleum supply has been inspected and approved.

2. Fire Notification/Protection Systems

a. A fire detection, alarm, and communication system required for life safety shall be installed, tested, and maintained in accordance with the facility's occupancy and capacity classifications.

b. Fire alarm systems shall be installed by agents registered with Office of State Fire Marshal.

c. Alarms shall be loud enough to be heard above normal noise levels.

d. Fire extinguishers shall be mounted throughout the facility as required by code and approved by Office of State Fire Marshal.

i. Each laundry and walk-in mechanical room shall have at least one portable A:B:C extinguisher, and each kitchen shall have at least one B:C fire extinguisher.

ii. Each fire extinguisher shall have the required maintenance service tag attached.

e. Staff shall conduct quarterly inspections of fire extinguishers for proper location, obvious physical damage, and a full charge on the gauge.

3. Exterior Space Requirements. A provider shall:

a. ensure that all structures on the grounds of the facility that are accessible to clients are maintained in good repair and are free from an excessive hazard to health or safety;

b. maintain the grounds of the facility in an acceptable manner and ensure that the grounds are free from any hazard to health or safety;

c. store garbage and rubbish securely in non-combustible, covered containers that are emptied on a regular basis;

d. separate trash collection receptacles and incinerators from client activity areas and locate all containers so as to avoid being a nuisance to neighbors;

e. keep fences in good repair;

f. fence off or have natural barriers around areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters, or high speed roads.

4. Interior Space Requirements

a. Group Rooms. Seating for each client shall be provided with appropriate furnishings.

b. Leisure/Craft Areas. Materials appropriate to the clients being treated at the facility shall be stocked.

c. Bathrooms. Minimum facilities include:

i. adequate operational fixtures to meet Louisiana State Plumbing Code. All fixtures must be functional and have the appropriate drain and drain trap to prevent sewage gas escape back into the facility;

ii. an adequate supply of hot water for the number of clients and the program schedule. Hot water temperature at point of service to client shall be between 105 and 120 degrees Fahrenheit;

iii. toilets shall have seats and be located to allow access without disturbing other clients during sleeping hours and/or treatment sessions;

iv. adequate supply of toilet paper, towels, and soap;

v. doors to allow for individual privacy;

vi. external emergency release mechanism;

vii. safe and adequate supply of cold running water;

viii. safety mirrors attached to the walls at convenient heights and other furnishings necessary to meet the clients' basic hygiene needs;

ix. functional toilets, wash basins, and other plumbing or sanitary facilities which shall be maintained in good operating condition, and shall be kept free of any materials that might clog or otherwise impair their operation.

d. Administrative and Counseling Space

i. Administrative office(s) for records, secretarial work and bookkeeping shall be separate and secure from client areas.

ii. Space shall be designated to allow for private discussions and counseling sessions.

e. Doors and Windows. Outside doors, windows and other features of the structure necessary for safety and comfort of clients shall be secured for safety within 24 hours after they are found to be in a state of disrepair. Total repair should be effected as soon as possible.

i. A provider must have insect screening for all opened windows. This screening shall be readily removable in emergencies and shall be in good repair.

- ii. All doors can be readily opened from both sides.
- iii. All windows open to an outside view or a patio/porch area and are available for use as an alternate means of escape, if needed.
- f. Storage. A provider shall:
 - i. ensure that there are sufficient and appropriate storage facilities;
 - ii. secure all potentially harmful materials.
- 5. Exits
 - a. Exit doors and routes shall be lighted and unobstructed at all times.
 - b. There shall be an illuminated "exit" sign over each exit. Where the exit is not visible, there shall be an illuminated "exit" sign with an arrow pointing the way.
 - c. Rooms for 50 or more people have exit doors that swing out.
 - d. No door may require a key for emergency exit. Locked facilities shall have emergency exit door releases as described in the Life Safety Code and/or approved by the Office of State Fire Marshal.
 - e. Windows shall provide a secondary means of escape.
 - f. Every building shall have at least two exits that are well separated.
 - g. Every multiple-story building shall have at least two fire escapes (not ladders) on each story that are well separated. Fire escapes shall:
 - i. be made of non-combustible material;
 - ii. have sturdy handrails or walls on both sides; and
 - iii. provide a safe route to the ground.
 - h. Stairs and ramps shall be permanent and have non-slip surfaces.
 - i. Exit routes higher than 30 inches (such as stairs, ramps, balconies, landings, and porches) shall have full-length side guards.
- 6. Electrical Systems. All electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition. Any room, corridor, stairway and exit within a facility is sufficiently illuminated.
 - a. The facility shall have adequate lighting to provide a safe environment and meet user needs.
 - b. Lighting shall be provided outside the building and in parking lots.
 - c. Light bulbs shall have shades, wire guards or other shields.
 - d. Emergency lighting shall illuminate "exit" routes.
- 7. Ventilation
 - a. The facility shall not use open flame heating equipment or floor furnaces, unvented space heaters, or portable heating units.
 - b. Occupied parts of the building, including kitchen and laundry areas, shall be air conditioned and temperature should remain between 65 degrees and 85 degrees Fahrenheit.
 - c. The entire facility shall be adequately ventilated with fresh air. Windows used for ventilation shall be screened.
 - d. Provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water

pipes, are insulated and installed in a manner that ensures the safety of clients and staff.

8. Plumbing

- a. Safe, clean, cold drinking water shall be readily available to all clients.
- b. The plumbing systems shall be designed, installed, operated and maintained in a manner that is designed to provide an adequate and safe supply of water for all required facility operations and to facilitate the complete and safe removal of all storm water and waste water.

9. Finishes and Surfaces

- a. Lead-based paint or materials containing asbestos shall not be used.
- b. Floor coverings must promote cleanliness, must not present unusual problems for the handicapped and have flame-spread and smoke development ratings appropriate to the use area (e.g.; client's room versus exit corridor).
- c. All variances in floors shall be easily identified by markings, etc. to prevent falls.

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§7425. Rights, Abuse, Exploitation, and Neglect

A. Client's Rights. Involuntary hospitalization/commitment does not mean loss of your rights to make decisions about one's life. The client shall have the right to expect the following inclusive but not exclusive rights:

- 1. assistance with healing of family relationships;
- 2. protection from unsafe and/or unskilled care by any person associated with the facility;
- 3. protection from unqualified persons providing services under the auspices of treatment;
- 4. consideration and respect toward the client, family and visitors when those people treat the facility staff with respect and consideration;
- 5. protection of personal property approved by the facility; and
- 6. protection from retaliation when client exercises his or her rights.

B. Adult Bill of Rights. Adults have the right to:

- 1. a humane environment that provides reasonable protection from harm and appropriate privacy for personal needs;
- 2. be free from abuse, neglect, and exploitation;
- 3. be treated with dignity and respect;
- 4. appropriate treatment in the least restrictive setting available that meets individual needs;
- 5. be told about the program's rules and regulations before admission;
- 6. be told before admission:
 - a. the condition to be treated;
 - b. the proposed treatment;
 - c. the risks, benefits, and side effects of all proposed treatment and medication;

d. the probable health and mental health consequences of refusing treatment; and

e. other available treatments which may be appropriate;

7. accept or refuse treatment after receiving the explanation in Paragraph 6 above;

8. change of mind at any time (unless specifically restricted by law);

9. a treatment plan designed to meet individual treatment needs, and the right to take part in developing that plan;

10. meet with staff to review and update the treatment plan on a regular basis;

11. refuse to take part in research without affecting regular care;

12. refuse unnecessary and/or excessive medication;

13. not to be restrained or placed in a locked room by self unless a danger to self or others;

14. have personal information kept confidential and to be told about the times when the information can be released without your permission;

15. communicate with people outside the facility. This includes the right to have visitors, to make telephone calls, and to send and receive sealed mail. This right may be restricted on an individual basis by one's doctor or the professional in charge of the program if it is necessary for treatment or for security, but even then the client may contact an attorney or DHH at any reasonable time;

16. be informed in advance of all estimated charges and any limitations on the length of services;

17. receive an explanation of treatment or rights while in treatment;

18. leave the facility within four hours of requesting release (if individual consented to treatment), unless a physician determines that he or she poses a threat of harm to self and others;.

19. make a complaint and receive a fair response within a reasonable amount of time;

20. complain directly to DHH at any reasonable time;

21. get a copy of these rights before admission, including the address and phone number of DHH;

22. have rights explained in simple terms, in a way that can be understood, within 24 hours of being admitted.

C. Abuse, Neglect, and Exploitation

1. Reporting. All allegations of client abuse, neglect, and exploitation shall be reported verbally/facsimile within 24 hours, and confirmed in writing to HSS within seven days.

2. Abuse. Client abuse includes:

a. any sexual activity between facility personnel and a client;

b. corporal punishment;

c. nutritional or sleep deprivation;

d. efforts to cause fear;

e. the use of any form of communication to threaten, curse, shame, or degrade a client;

f. restraint that does not conform with these rules;

g. coercive or restrictive actions that are illegal or not justified by the client's condition taken in response to the client's request for discharge or refusal of medication or treatment; and

h. any other act or omission classified as abuse by Louisiana law.

3. Neglect. Neglect examples include:

a. failure to provide adequate nutrition, clothing, or health care;

b. failure to provide a safe environment free from abuse or danger;

c. failure to maintain adequate numbers of appropriately trained staff;

d. any other act or omission classified as neglect by Louisiana law.

4. Exploitation. Examples of exploitation include:

a. use of a client's personal resources, such as credit card, medical assistance card, or insurance card, to bill for inappropriate service;

b. use of the client's food stamps or other income to purchase food/services used primarily by others;

c. using the client to solicit money or anything of value from the public, or others.

5. Sexual Exploitation. It may include sexual contact, a request for sexual contact, or a representation that sexual contact or exploitation is consistent with or part of treatment.

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Subchapter C. Children/Adolescent Programs and Primary Prevention

§7427. Children/Adolescent Programs

A. General. Provisions in this section apply to facilities that are inpatient, outpatient, community-based, or primary prevention programs when service recipients are under 18 years of age. The following provisions are in addition to listed requirements for programs, and take precedence over conflicting requirements when services are provided to adolescents or children. Specific programs may have additional requirements in addition to those listed in this section.

1. The program lectures, and written materials shall be age-appropriate and easily understood by clients.

2. The program shall involve the adolescent's family or an alternate support system in the process or document why this is not appropriate.

3. Staff shall not provide, distribute, or facilitate access to tobacco products.

a. Staff shall not use tobacco products in the presence of adolescent clients.

b. The staff shall prohibit adolescent clients from using tobacco products on the program site or during structured program activities.

B. Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

1. Any facility employee who provides direct care to children/adolescents shall meet the requirements of the *Louisiana Children's Code Article 116*. Specifically, the

employee may have no documented history indicating the possibility that he/she would endanger the child. Facility shall make every effort to determine criminal history of employees.

2. The facility shall ensure that only qualified professional staff (R.S. 40:1098.2) plan, supervise, or provide education or counseling or training in the emotional, mental health, and substance abuse problems to adolescents.

3. All direct care employees shall have training in human adolescent development, family systems, adolescent psycho-pathology and mental health, substance abuse in adolescents, and adolescent socialization issues.

4. All direct care employees and volunteers shall be trained and competent to use personal and physical restraint.

C. Special Considerations

1. Facilities shall address the special needs of adolescents and protect their rights.

2. Adults and adolescents may be mixed for specific groups or activities when no conflict exists.

3. The facility shall obtain consent for admission and authorization to obtain medical treatment from parent or guardian prior to the time of admission for all clients under the age of majority.

4. If functional status of client is not age appropriate, facility shall provide additional supervision to provide for safety of all clients.

D. Minor's Bill of Rights. In accordance with the *Louisiana Children's Code, Article 116*; the minor has the right to:

1. an attorney and the right to communicate with that attorney in a private place at all times;

2. a copy of client rights in a language that can be reasonably understood;

3. receive and send letters, to receive and make telephone calls, to receive visitors (at least weekly);

4. spend a reasonable amount of money on small items, such as snacks, and soft drinks;

5. wear one's own clothes and keep personal things;

6. have a private space for personal belongings;

7. be disciplined in a way that is appropriate. Restraint and seclusion cannot be used to punish or discipline;

8. medicine that makes one feel better. If the medicine makes the minor feel bad, the individual should tell the nurse, doctor or client advocate;

9. treatment in a place that allows the most freedom possible;

10. treatment plan that is set up to meet individual needs;

11. leave the facility when condition improves enough so that treatment can be received in a less restrictive setting;

12. have a private doctor examine client at his or her own expense.

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§7429. Primary Prevention Programs

A. Purpose. Programs are planned, goal-oriented activities designed for the following purpose:

1. promote personal (emotional, intellectual, physical, spiritual and social) growth of individuals; and/or

2. strengthen those aspects of the community environment which preclude, forestall, or impede the development of alcohol and other drug abuse problems.

B. Types. The following are types of prevention programs:

1. youth-based programs; and

2. community education centers. Educational programs provide educational services through qualified personnel for government agencies, community organizations, school systems (public and private), churches, businesses, medical and health systems, professionals and individuals. These types of programs relate to community and personal health issues concerning the prevention of substance use/abuse.

C. Activities/Strategies/Services

1. Activities

a. Information Dissemination. Primarily one-way communication to reach into a community, systematically to identify "at risk" persons and their families, to inform the community of available services, location of needed services, and how to access the system.

b. Education. Primarily two-way communication to improve critical life and social skills, to increase resistance skills, and to improve ability to make judgments regarding the use of alcohol and other drugs.

c. Alternative Activities. Opportunities are provided that exclude the use of alcohol, tobacco, and other drug use.

d. Problem Identification and Referral Activity provides assessment of community's need for primary prevention and/or identification/referral of "at risk" individuals.

e. Community-Based Process. Activities are designed to enhance the ability of the community to prevent substance abuse.

f. Environmental. Establishes or positively impacts written and unwritten community standards, codes and attitudes toward substance use/abuse.

2. Referral Services. Program staff will be trained to recognize the symptoms of substance abuse/addiction and referrals must be made only to appropriately licensed treatment programs.

D. Staffing. The following staffing requirements are minimum standards and do not restrict the facility from utilizing additional employees.

1. All persons providing services to children/adolescents shall meet the criteria in §7417 of this document and the *Louisiana Children's Code, Article 116*. Facility must employ/assign personnel to provide for the safety of the clients during all activities.

2. A BCPS or QPS or QPC shall provide on-site supervision during all group activities.

3. At least one BCPS, QPS, or QPC shall be available on duty for every 25 clients if program is for youth groups; otherwise for events such as community education, no guidelines.

4. Volunteers who work with children/adolescents shall be screened to prevent potential harm or danger to participants.

5. Prevention professional services differ from those of counselor in that prevention professional duties do not include intervention, therefore QPC or QPS professionals may perform duties of the CPS.

E. Client Functional Status. Clients must be appropriate to program design and presentation.

F. Adherence. Programs will adhere to models currently approved by OAD and DHH/HSS to reduce substance abuse and associated problem behaviors. Providers shall adhere to the following:

1. submit all required documentation for initial licensure as required in §7407 Initial Licensure;
2. maintain rosters of all clients with pre/post test scores;
3. provide services during the hours approved at initial licensure and also provide programs after-school, holidays, summer months, and weekends for youth groups;
4. outcomes shall be measured by reasonable criteria related to program goals.
5. Annual evaluations of program effectiveness to document the effect of the program will provide indicators for continuous quality improvement. Programs are exempt from §7417.D.2.

G. Participant Record Requirements. Each youth based group participant record shall include the following:

1. admission and referral information;
2. client/participant information/data, name, race, sex, birth date, address, telephone number, Social Security number, school/employer, and next of kin/emergency contact;
3. medical limitations, such as major illnesses and allergies;
4. attendance, participation in services and/or activities; and
5. a release to obtain emergency care in case of illness or injury.

H. Facility Record Requirements. Facility shall maintain additional records as follows:

1. client/participant roster;
2. activity schedule;
3. pre/post test scores;
4. log of clients referred to or received from facilities for treatment or evaluation; and
5. personnel assignments/actual hours of work.

I. Community Education. Information is provided to the public related to abuse/addiction, either as outreach activities or as a resource center. Each facility shall:

1. employ and utilize BCPS or QPS or QPC;
2. submit the following for initial licensure:
 - a. credentials;
 - b. scheduled activities and locations;
 - c. program descriptions;
 - d. licensure fee with current, complete application;and
 - e. description of target population(s);
3. provide all services in accordance with accepted standards of professional conduct;
4. maintain roster of participants/attendees, as well as documentation of all services provided;

5. provide a plan for process and outcome evaluation.

J. Special Considerations. All programs that contract with OAD must meet any additional requirements of OAD, and be approved in writing by OAD prior to licensing by HSS.

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Subchapter D. Core Requirements for Treatment Programs

§7431. Treatment/Detoxification Programs

A. General. If treating adolescents and/or children, follow §7427 in addition to other requirements.

B. Professional Staffing Standards. The following are the minimum staffing requirements for all treatment/detoxification programs and do not restrict any facility from utilizing additional staff. Specific programs may have additional staffing requirements.

1. Physician. Every licensed treatment or detoxification program shall have a designated medical director, who provides medical oversight of all care provided, participates in the development of policies and procedures of the facility, and provides medical care if needed. The following duties may be performed by a qualified advance practice registered nurse when in collaborative practice with the medical director. Additional duties include, non-exclusively:

- a. writing the admission/discharge orders, when required;
- b. writing/approving all prescription medication orders;
- c. writing and providing education regarding the protocols for administering all medications on-site, including non-prescription medications;
- d. supervising or providing services and care; and
- e. providing consultative and on-call coverage to assure health and safety of clients in the facility.

2. Nursing. Each facility shall have adequate nurses to provide nursing services when indicated by the diagnosis, nursing needs of the clients admitted to the facility, administration of medicines and/or treatments, and general physical health of clients. Adequate shall be defined as having nursing staff available whenever a client has needs requiring professional nursing skills.

3. Pharmacist. Any facility that dispenses/administers prescription medication on-site shall employ adequate staff to assure that any prescription medication administered and/or dispensed on-site shall meet the requirements of R.S. 37:1161 et seq., Facility shall have written agreement with a licensed pharmacist or licensed physician to provide on-site service and consultation and evaluation of medication policy and procedure of facility to dispense prescriptions, reconcile (administration and dispensing) inventories at least every 30 days, and to maintain medication records for at least three years.

4. Qualified Professional Supervisor (QPS). Every facility shall have QPS on-duty during operational hours at least one hour per week per counselor, two hours per week per counselor-in-training, and additionally as indicated by the needs of the active clients. Primary duties include supervising QPC's and CIT's during counseling sessions, treatment planning and counseling for clients who have complex needs/diagnoses. Specific additional requirements for 24-hour facilities are listed in the applicable section.

5. Qualified Professional Counselor (QPC). Each outpatient program shall have full-time QPC on duty during all hours of operation, and as determined by needs of the active clients, on-call after normal business hours. Specific requirements for 24-hour facilities are listed in the applicable section.

C. Treatment/Detoxification Protocols. All services shall be delivered according to a written plan and a posted activity schedule. The treatment program shall:

1. be age and culturally appropriate for the population served;
2. demonstrate effective communication and coordination;
3. provide for appropriate utilization of services;
4. be an environment that enhances the positive self-image of clients and preserves their human dignity;
5. administer/dispense medication safely and legally, only when prescribed or approved by the staff medical doctor or advanced practice registered nurse (APRN);
6. require professional participation in all required components of the treatment program;
7. assure that the hours of scheduled treatment activity meet requirements of the program license; and
8. utilize the 12 core functions of substance abuse counseling and other current standards of practice.

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§7433. Admission, Discharge, or Transfer

A. Admission Requirements. Initial Assessment and Diagnosis of specific abuse/addictive disorder/disease by the medical director or other licensed qualified professional (physician, advanced practice registered nurse-certified in mental health, licensed social worker, licensed professional counselor or licensed psychologist) as currently defined in the Diagnostic and Statistical Manual for Mental Disorders (DSM).

1. Initial Admission Diagnosis. Process shall contain:
 - a. physical examination within 72 hours when one is indicated by the M.D./nursing assessment/screening process;
 - b. laboratory examinations as required to prevent spread of contagious/communicable disease, and as indicated by physical examination or nursing assessment, including drug screening when history is inconclusive or unreliable;

c. medical/nursing assessment/history and screening interview;

d. psycho-social evaluation. CQPC/QPS shall document a psycho-social history that provides a thorough understanding of the client's history and present status including:

- i. circumstances leading to admission;
- ii. alcohol and other drug use, past and present (including amount, frequency, route of administration, and time/date of last use);
- iii. past psychiatric and chemical dependency treatment;
- iv. significant medical history and current health status;
- v. family and social history;
- vi. current living situation;
- vii. relationships with family of origin, nuclear family, and significant others;
- viii. education and vocational training;
- ix. employment history (including military) and current status;
- x. legal history and current legal status;
- xi. emotional state and behavioral functioning, past and present; and
- xii. strengths, weaknesses, and needs.

e. intake screening to include: vocational, economic, educational, and criminal/arrest information; and

f. appropriate assignment to treatment modality with referral to other appropriate services as indicated.

i. Clients shall have access to HIV counseling and testing services directly or through referral. Such counseling and testing shall be voluntary, anonymous/confidential, and not limited by ability to pay.

ii. The program shall make testing for tuberculosis and sexually transmitted diseases available to all clients unless the program has access to test results obtained during the past year. The services may be provided directly or through referral as long as appropriate follow-up referral/care is also provided.

2. Additional Requirements. Additional admission requirements are:

- a. availability of appropriate physical accommodations;
- b. legal authority or voluntary admission;
- c. availability of professionals to provide services needed as indicated by the initial assessment and diagnosis; and
- d. written documentation that client/family consents to treatment and understands the diagnosis and treatment modality.

3. Client/Family Orientation. Each facility shall provide orientation, confidentially and efficiently, primarily by qualified professional, concerning:

- a. visitation;
- b. family involvement;
- c. safety;
- d. authorization to provide treatment;
- e. potential problems;
- f. projected duration of treatment;
- g. consequences of non-compliance;
- h. treatment methodology; and

i. all pertinent information, including fees and consequences of non-payment of fees.

4. Re-admissions. Each facility shall have written re-admission standards which address criteria, length of stay, authorization to make exceptions, and crisis intervention.

B. Discharge Criteria. Each program shall develop and follow appropriate written criteria to decide when/how clients will be discharged or transferred to another level.

1. Indicators. The criteria shall utilize indicators to determine:

- a. satisfactory completion of the level;
- b. need for referral or transfer to another level or facility; and
- c. when client should be discharged before completing the program.

2. Discharge Plan. A written, client-specific plan to provide reasonable protection of continuity of services, that shall include:

- a. client transfer or referral/assignment to outside resources, continuing care appointments, crisis intervention assistance, and discharge summary;
 - b. documented attempts to involve family or an alternate support system in the discharge planning process;
 - c. planning before the client's scheduled discharge;
 - d. individual goals or activities to sustain recovery;
- and
- e. signature of the client or consenting person/guardian.

3. Discharge Summary. When client is being transferred to another level of treatment, two working days are allowed for completion. In other situations 30 days are allowed. The summary must be written, client specific, and include:

- a. needs and problems identified at the time of admission (may be attached);
- b. services provided;
- c. assessment of the client's progress towards goals;
- d. circumstances of discharge; and
- e. evidence that continuity of care recommended following discharge.

4. Request for Discharge. When such a request is received, the facility shall:

- a. not hold a voluntary client against the consenter/guardian's will;
- b. have written procedures for handling discharges and discharge requests that comply with applicable statutes;
- c. not try to keep a client in treatment by coercion, intimidation, or misrepresentation;
- d. not say or do anything to influence the client's decision that is not justified by the client's condition.

C. Transfer Process. Transfer procedures between two facilities to provide continuum of care which may be based on the compilation of client data rather than completing additional medical history/examination/physician orders, psycho-social assessment, treatment plan, and other pertinent information upon admission to inpatient or outpatient care.

1. Sender requirements:

- a. transfer all client information within two working days of transfer;
- b. notify the receiving facility (in writing) simultaneously with arrival of client any information that

will be needed to care for client before transfer information arrives; and

c. request and receive approval from receiving facility prior to transfer.

2. Receiver requirements:

- a. provide client with orientation to facility; and
- b. update all information received in transfer.

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§7435. Client Records

A. Client Record Standards. The facility is required to maintain a clinical record according to current professional standards for each client.

1. Safeguards shall be in place to prevent unauthorized access, loss, and destruction.

2. Client record can be copied and/or transferred from one facility to another provided that client signs authorization for transfer of record and provided that confidentiality of information is strictly in adherence with 42 CFR, Part 2.

3. Client records shall be maintained at the facility where the client is currently active and for six months after discharge. Records may then be transferred to a centralized location for maintenance in accordance with standard practice and state and federal laws.

4. Confidentiality. Records shall be:

- a. accessible only to authorized personnel trained in confidentiality and others granted access by legal authority such as surveyors, investigators, etc.;
- b. not shared with any other entity unless approved in writing by client, except in medical emergencies; and
- c. kept in compliance with 42 CFR, Part 2.

5. Record-keeping Responsibility. A trained medical records person or professional shall be designated as responsible for the client records.

B. Contents. Client record shall accurately document treatment provided and client response in accordance with professional standards of practice at all times. This record shall contain all pertinent past and current medical, psychological, social and other therapeutic information.

1. Minimum client record requirements for Treatment/Detoxification Programs.

- a. admission diagnosis and referral information;
- b. client information/data: name, race, sex, birth date, address, telephone number, social security number, school/employer, and next of kin/emergency contact;
- c. screening Csee program specific requirements.
- d. medical limitations, such as major illnesses, allergies; and
- e. attendance, participation in services/activities.

2. Additional Minimum Requirements for Client Treatment Records Contents

- a. Initial assessment and diagnosis. See §7431.C.1.

b. Treatment plan. The plan is a written list of the client's problems and needs based on admission information and updated as indicated by progress or lack of progress. Additionally, the plan shall:

i. contain input from primary counselor and client within 72 hours after admission, then information from other disciplines added as client is evaluated and treated;

ii. be reviewed and revised as required, or more frequently as indicated by client needs;

iii. contain client-specific, measurable goals that are clearly stated in behavioral terms;

iv. contain realistic and specific expected achievement dates;

v. contain how facility will provide strategies/activities to help the client achieve the goals;

vi. be followed consistently by all staff members; and

vii. contain complete, pertinent information related to the mental, physical, and social needs of the client.

c. Diagnostic laboratory and other pertinent information, when indicated.

d. Progress Notes. In accordance with current professional standards of practice, progress notes shall:

i. document implementation of the treatment plan and results;

ii. document services provided to the client. This may be done by filing a copy of the program schedule in the client record and documenting the client's level of participation in the progress notes;

iii. be completed weekly by the QPS/QPC to document progress toward stated treatment plan goals unless client is seen on a less frequent basis in accordance with the treatment plan; and

iv. be verified and co-signed by QPS/QPC when prepared or written by CIT.

e. Client Contact Report. The staff member involved in the incident shall prepare and file a written report.

f. Other pertinent information related to individual client as appropriate.

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§7437. Core Functions/Services

A. Core Functions. Core functions are: Screening, Intake, Orientation, Assessment, Treatment Planning, Counseling, Case Management, Crisis Intervention, Client Education, Referral, Reports and Record Keeping, and Consultation with Professionals.

1. Assessment-core function in which a counselor/program identifies and evaluates an individual's strengths, weaknesses, problems, and needs for the development of the treatment plan. Collection of data from client and/or family/others sufficient to formulate an

individualized and client-specific treatment plan or referral to appropriate level of care. Any assessment leading to a diagnosis shall be performed by a professional qualified to diagnose.

2. Case Management-core function in which services, agencies, resources, or people are brought together within a planned framework of action toward the achievement of established goals. It may involve liaison activities and collateral contracts with other providers/facilities.

3. Client Education-core function in which information is provided to individuals and groups concerning alcoholism and other drug abuse, positive lifestyle changes, and the available services and resources. Educational group size is not restricted and may be offered as outreach program. Program shall:

a. follow a course outline that identifies lecture topics, activity schedule, and major points to be discussed;

b. include benefits of participation in appropriate self-help groups; and

c. not identify the activity as a counseling session.

4. Client Orientation-core function in which the client is informed regarding:

a. general nature and goals of the program;

b. rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;

c. availability of services;

d. costs; and

e. client's rights.

5. Consultation with Professionals-core function in which functional relationship with counselors and other credentialed health care professionals is provided as required to assure comprehensive quality care for the client including, but not limited to, treatment of children, adolescents, or clients/family members who have complex problems or who are dually diagnosed with abuse/addiction disorder and mental illness.

6. Counseling (Individual/Group) Services-core function in which appropriate support is provided to the client by those professionals qualified to provide therapeutic services.

a. special skills are used to assist individuals, families, or groups in achieving objectives through:

i. exploration of a problem and its ramifications;

ii. examination of attitudes and feelings;

iii. consideration of alternative solutions; and

iv. decision making and problem solving.

b. counseling Session (individual, group, or family) is a documented interaction between qualified professional personnel and client or client and significant others.

c. all counseling groups shall be homogenous and no more than 12 clients.

d. Counseling sessions shall last at least 30 minutes.

7. Crisis Intervention Services-core function in which appropriate assistance during emergencies including 24-hour telephone coverage by qualified counselor to provide telephone assistance to prevent relapse, to provide referral to other services, and to provide support during related crises. Facilities may have written contract with another facility to provide coverage only if the caller is automatically transferred or given directions to reach professional

assistance, or receive a call from a professional within a 30-minute time frame.

8. Intake-core function in which information is gathered about a prospective client. Information is given to a prospective client about the treatment facility and facility's treatment and services.

9. Referral-core function in which appropriate services not provided by facility are identified, and client/family is assisted to optimally utilize the available support systems and community resources. Facility shall provide appropriate resource information regarding local agencies to client/family upon need/request and/or procedures to access, including but not limited to, vocational services, community services, and organizations to support recovery such as transitional living services, transportation, and vocational services. Additionally, facility will be expected to:

a. provide access to appropriate health care and mental health services;

b. refer pregnant clients who are not receiving prenatal care to an appropriate health care provider and monitor follow-through; and

c. refer clients to ancillary services necessary to meet treatment goals.

10. Reports and Record Keeping-core functions in which results of the assessment and treatment planning are recorded. Written reports, progress notes, client data, and discharge summaries and other client related documentation is recorded in the client record. See §7435.

11. Screening-core function that is the determination of whether a client meets the program's admission criteria. It uses information such as the person's reason for admission, medical and substance abuse history, and other needed information to determine client's need for treatment, and/or appropriateness of admission.

12. Treatment Planning-core function in which the counselor and the client:

a. identify and rank problems needing resolution;

b. establish agreed upon immediate objectives and long-term goals; and

c. decide on a treatment process, frequency, and the resources to be utilized. Documentation of treatment planning process shall be in accordance with current standards of practice.

B. Services

1. Toxicology Services

a. Programs are required to have on-site or written agreement for toxicology services with a laboratory with appropriate Clinical Laboratories Improvement Amendments (CLIA) certification for testing.

b. If collection is performed on-site, facility shall have written protocols for collection of specimens in accordance with current standards of practice and have written approval by the testing laboratory.

c. The minimal set of substances required to be screened for toxicology are subject to annual approval by OAD.

2. Contract Services. Programs may use an outside source to provide any of the services listed above, however, the facility retains responsibility for the service.

3. Formal written agreements with professionals or other entities to provide services which may or may not be directly offered by facility staff:

a. are required for contract services;

b. both parties shall review and document review of each agreement annually;

c. the facility retains full responsibility for all services provided by contract, unless client is discharged from original facility and admitted to contract facility;

d. all services provided by contract shall meet the requirements of these standards and be provided only by qualified providers (licensed if required).

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Subchapter E. Outpatient Programs

§7439. Outpatient Counseling Programs

A. Purpose. Programs provide non-residential treatment services for clients who require on-going support on a regular or irregular basis, such as:

1. continuing care for those who have completed primary treatment and require minimal support to avoid relapse;

2. early intervention for those who have been identified as substance abusers and referred for education, activities, or support services designed to prevent progression of disease;

3. initial point of entry/reentry. Activities related to assessment, evaluation, diagnosis and assignment of level of care are provided, including transfer between facilities and/or treatment modalities, relapse assessment, and assignment to level of care;

4. combination of the above.

Note: Facility license is not required for individual or group practice of licensed counselors/therapists providing the above services under the auspices of their individual license(s).

B. Staffing. All requirements are in addition to §7431.

1. QPS: on-call as needed for crisis intervention.

2. QPC: hours of operation, and on-call as needed for crisis intervention.

3. nursing and pharmacy: not required, unless designated on license.

4. caseload size is based on needs of the active clients to ensure effective, individualized treatment and rehabilitation. Approval by OAD or HSS is required in writing when caseload exceeds 50 active clients. For this standard, *active* is defined as being treated at least every 90 days.

C. Client Functional Status. Clients must be able to function independently in outpatient setting with appropriate support.

D. Special Considerations. When these services are court ordered, facility will provide all services in accordance with these licensing standards, maintain court related information,

and initiate necessary communications to facilitate the court referral process.

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§7441. Intensive Outpatient Treatment Programs

A. General

1. All requirements are in addition to core requirements.

2. Outpatient treatment facilities offer increased levels of responsibility for clients to apply knowledge and to practice skills in structured and non-structured settings.

3. Organized and structured day/evening treatment sessions are offered for at least nine hours per week on three or more days per week.

B. Staffing. All requirements are in addition to §7431 unless otherwise noted .

1. Supervisor (QPS). Ten hours weekly during hours of operation.

2. Counselor (QPC). Counselor shall be on site during all hours of operation and available for crisis intervention as needed.

3. Caseload. Counselor shall have no more than 25 active clients unless written approval is granted by OAD or HSS. For this standard, *active* is defined as being treated at least every 30 days.

4. Groups (counseling) shall not exceed 12 clients, but may be smaller in keeping with the needs of the clients.

5. Facility may use outpatient counseling standards for those clients who do not receive intensive outpatient treatment, however, the client must meet criteria for functional status for outpatient counseling and be designated as counseling client.

C. Client Functional Status. Clients shall be able to function with limited supervision within their existing environment or in environments designed to provide support, but cannot independently maintain stability for at least 72 hours.

D. Special Considerations. Treatment plan review/adjustments shall be documented in progress notes weekly by counselor, and by other disciplines as needed to assure continuity of care.

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§7443. Opiate Addiction Treatment Programs

A. General. All requirements are in addition to core requirements.

1. Opiate addiction treatment programs detoxify chronic opiate addicts from opiates and opiate derivatives and maintain the chronic opiate addict utilizing a synthetic narcotic until the client can achieve recovery through a spectrum of counseling and other supportive/rehabilitative services.

2. Programs shall document justification, annually, for any client who continues to require opiate addiction treatment after five years.

3. The goal of all opiate addiction treatment is complete abstinence by client from all addictive substances, other than those prescribed through the treatment plan.

4. Treatment protocols require that facility provide medically-approved and medically-supervised assistance to withdraw from the synthetic narcotic when:

- a. the client requests withdrawal;
- b. quality indicators predict successful withdrawal;
- c. client or payor source suspends payment of fees;

and

d. other events occur as defined in the 21CFR 291.505.

5. Each facility is required to independently meet the requirements of the protocols established by OAD/State Methadone Authority.

6. Any program that fails to maintain any required licensure shall be also terminated immediately.

7. Facility shall get approval from State Methadone Authority prior to submitting application to HSS for initial licensure.

8. Each program shall also comply with requirements of 21 CFR 291.505 unless the comparable state requirement is more stringent.

9. Each client shall have documented evaluation by a physician or advanced practice registered nurse as follows:

a. at least weekly until the client becomes physically stable and has completed at least four weeks of attendance at clinic (at least six days per week); then

b. at least quarterly until the client completes one year in the program.

c. annually thereafter; and

d. any time that client is unstable.

B. Treatment Phases/Specific Requirements

1. Initial Treatment. Intensive assessment and intervention phase lasting from three to seven days in duration. Services to be provided are:

a. admission verification by physician that treatment is medically necessary as determined by physical examination and medical diagnosis (prior to administering of any medication);

b. individual counseling as indicated by daily nursing assessment;

c. initial treatment plan includes initial dose of medication and plan for treatment of critical health or social issues; and

d. client may not be issued any unsupervised take home dose (until written determination is available) unless specifically ordered by physician; and

e. client orientation.

2. Early Stabilization. Beginning on the third to seventh day of treatment (following initial treatment) through eight weeks duration, the following shall be provided:

- a. frequent monitoring by nurse of the client's reaction to medication;
- b. individual counseling comprised of at least four individual counseling sessions during this phase;
- c. development of treatment plan within 30 days with input by all disciplines, client and significant others; and

d. random monthly drugs of abuse/alcohol screens.

3. Long-term Treatment. This stage follows the end of early stabilization and lasts for an indefinite period of time. Services to be provided are:

a. random monthly drug/alcohol screens until the client has negative drugs of abuse/alcohol screens for one year, then approximately every 90 days. Clients who are allowed six days of take-home medication shall be tested every month;

b. continuous evaluation by the nurse of the client's use of medication/treatment from other sources;

c. documented reviews of the treatment plan every ninety days by treatment team; and

d. progress notes addressing response to treatment at least every 30 days.

4. Withdrawal. Medically supervised withdrawal from synthetic narcotic with continuing care. This service is provided if and when appropriate. Services to be provided are:

a. decreasing the dose of the synthetic narcotic to accomplish gradual, but complete withdrawal, within the tolerance level of the client;

b. counseling of the type and quantity determined by the indicators and the reason for the medically supervised withdrawal from the synthetic narcotic; and

c. discharge planning with continuity of care to assist client to function without support of the medication and treatment activities.

C. Counseling. Type and quantity shall be based on the assessment and recommendations of the treatment team and shall meet the following requirements.

1. Written documentation shall support decisions of the treatment team including indicators such as positive drug screens, maladjustment to new situations, inappropriate behavior, criminal activity, and detoxification procedure.

2. All counseling shall be provided individually or in small (not to exceed 12 clients) homogenous groups provided that group counselor is familiar with all clients and documents all contacts in the client record.

3. Written criteria are used to determine when a client will receive additional counseling and/or when individual take home medication privileges are more stringent than state guidelines.

4. Counseling shall be provided when requested by client/family.

D. Staffing. All requirements are in addition to §7431.

1. Pharmacist. Licensed pharmacist or licensed dispensing physician, in accordance with R.S. 38:1161, et seq., shall:

a. dispense all medications;

b. reconcile administration and dispensing inventory records at least every 30 days; and

c. maintain medication records for at least three years;

d. approve all transport devices for take home medications.

2. Nursing. All medications shall be administered under the supervision of a registered nurse or physician. A licensed practical nurse cannot administer medication unless registered nurse or physician is on duty or on call as defined in §7401.

3. QPS. On-site five hours per week per 100 clients.

4. QPC. One full time for each 50 clients and prorated if more or less active clients. The counselor's caseload is determined by the needs of the clients in the counselor's caseload and the counselor's available time to provide individual and group counseling. Any caseload greater than 50 clients per counselor must have written approval of State Methadone Authority and HSS.

5. Physician. Sufficient hours on-duty and on-call as needed during hours of operation.

E. Client Admission Criteria

1. Facility shall verify that the client:

a. is at least 18 years old, unless the client has parental consent; and

b. meets the federal requirements, including exceptions, regarding determination that client is currently addicted to opiates and has been addicted to opiates for at least one year prior to admission. Exceptions must be approved in writing by DHH.

2. Physician Verification. The physician shall diagnose the client based upon:

a. referring medical history and diagnosis of chronic opiate addiction, as currently defined in the Diagnostic and Statistical Manual for Mental Disorders (DSM);

b. physical examination;

c. confirmed documented history of opiate addiction;

d. needle marks(if indicated);

e. opiate positive drug screens; and

f. early signs of withdrawal.

F. Take-Home Medication Privilege. Determinations shall be made by the treatment team and documented in the client record.

1. Client responsibilities/considerations:

a. negative drug/alcohol screens for at least 90 days;

b. regularity of clinic attendance;

c. absence of serious behavioral problems;

d. absence of known criminal activity;

e. stability of home environment and social relationships;

f. assurance that take home medication can be safely stored;

g. whether the benefit to the patient outweighs the risk of diversion.

2. Exceptions. Each exception must be documented and justified by the physician, approved by the State Methadone Authority and federal agencies as required, then an exception can only be granted by those agencies for emergencies and severe travel hardships.

3. Standard Schedule (if indicated)

a. After 90 days in treatment with clinic attendance at least three times per week, no more than a two-day supply of take-home medication.

b. After two years in treatment with clinic attendance at least two times per week, no more than a three-day supply of take-home medication.

c. After three years in treatment with clinic attendance at least weekly, no more than a six-day supply of take-home medication.

4. Loss of Privilege. Positive drug screens at any time, for any drug other than prescribed, will require a new determination to be made by the treatment team regarding take-home privileges.

5. When the clinic is closed for a legal holiday or Sunday, a take home dose may be dispensed to clients who have attended the clinic at least twice and who have been determined by the nurse to be physically stable and by the counselor to create a minimal risk for diversion.

H. Client Record. Specific additional requirements for documentation include:

1. standards of clinical practice regarding medication administration/dispensing;

2. results of five most recent drug urine screens with action taken for positive results;

3. physical status and use of additional prescription medication;

4. monthly or more frequently, as indicated by needs of client, contact notes/progress notes which include employment/vocational needs, legal and social status, overall client stability; and

5. any other pertinent information.

I. Training. In addition to Orientation as described in §7419, "Staffing Qualifications/Requirements," all direct care employees shall receive training and demonstrate knowledge that includes:

1. symptoms of opiate withdrawal;

2. drug urine screens and collections, policies and procedures;

3. current standards of practice regarding opiate addiction treatment;

4. poly-drug addiction; and

5. information necessary to assure care is provided within accepted standards of practice.

J. Temporary Transfers or Guest Dosing. The facilities involved shall do the following.

1. Receiving facility shall verify dosage prior to administering medication.

2. Sending facility shall verify dosage and obtain approval/acceptance from receiving facility prior to client's transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

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Subchapter F. Twenty-four Hour Facilities

§7445. Additional Core Requirements for Twenty-Four Hour Facilities

A. Physical Plant Requirements

1. Kitchens. Kitchens used for meal preparations by either staff or clients shall be appropriately sized and provided with the necessary equipment for the preparation, storage, serving and clean-up of all meals provided to the clients/staff. In addition, if clients prepare meals, additional equipment and space will be required. All equipment shall be maintained in working order.

a. Trash containers shall be made of metal or United Laboratories-approved plastic.

b. Trash containers in kitchens and dining area shall be covered.

2. Staff Quarters. Live-in staff shall have adequate, separate living space with a private bathroom (toilet, wash basin, and tub/shower).

3. Leisure. Allotted leisure space shall be adequate for the capacity designated on the license and approved by DHH-Engineering and Planning. Each living unit of any residential facility shall contain a space for the free and informal use of clients. This space shall be constructed and equipped to meet programmatic goals.

4. Dining Area. Space shall be provided that permits clients, staff and guests to eat together in small groups and is clean, well-lighted, ventilated and attractively furnished.

5. Bedrooms. Mobile homes shall not be used for client sleeping areas. No more than four clients may occupy a designated bedroom space unless the floor plan is approved by DHH sections of Engineering and Professional Review, Fire Marshal, OAD and HSS. Sleeping areas shall have at least:

a. eighty usable square feet per person in single-occupancy rooms;

b. sixty usable square feet per person in multiple-occupancy rooms (or fifty square feet per person if bunk beds are used). Bunk beds shall not be used for Inpatient Primary Treatment programs;

c. doors for privacy and a functional window;

d. adequate personal storage space for each client, including space for hanging clothes and adequate drawer space;

e. a ceiling height of at least 7 feet 6 inches in a bedroom space of a size consistent with square footage requirements above, even if part of the room has a ceiling less than 7 feet 6 inches tall;

f. bed of solid construction, appropriate to size and age of client, that has a clean, comfortable, non-toxic fire-retardant mattress that fits bed. Cots or other portable beds are to be used in emergencies only;

g. clean sheets, pillow, bedspread and blanket provided by the facility as needed or requested by the client unless the request is unreasonable. All linens must be in good repair and systematically removed from use when no longer usable;

h. enough room above the uppermost mattress of any bed to allow the occupant to sit up;

i. a door/escape window leading directly to the outside of the building.

6. Bathrooms. There shall be at least one sink, one tub or shower, and one toilet for every eight residents.

a. Showers and tubs shall have no-slip surfaces and curtains or other safe enclosures.

b. Items required for personal hygiene shall be provided in facilities unless clients are already in possession of such items.

7. Miscellaneous

a. Personal appliances shall be in good working order and inspected for safety hazards.

b. All clients shall have access to laundry services at reasonable cost or properly maintained laundry facilities.

8. Recreational Equipment. All 24-hour treatment facilities shall have access to reasonable outdoor recreational space and suitable recreational equipment.

9. Vehicles. Transportation shall be provided in a safe and reliable vehicle that is properly licensed, insured, and inspected, and driven by an appropriately licensed person. Vehicles must be adequately insured and operated in accordance with all applicable laws and regulations.

B. Dietary Services. Services are provided on-site under the direction of a qualified dietitian, who is available for telephone consultation whenever client is admitted and has physician orders for dietary restrictions/supplements.

1. General Requirements. The facility shall provide:

a. meal break after five consecutive hours of scheduled activities;

b. an OPH approved kitchen with continuous conditions/procedures to maintain all foods at temperatures and under conditions to assure safe, sanitary handling;

c. nutritious meals of adequate quality and quantity to meet the needs of each client, including religious and dietary restrictions;

d. at least three meals daily, with no more than 14 hours between any two meals;

e. at least an evening snack;

2. Dietitian. The dietitian shall:

a. approve menus and provide written guidelines for substitutions in advance;

b. provide staff in-service training as needed to assure quality meal service;

c. provide information to professional staff regarding dietary needs of specific clients and be available for consultation when necessary.

3. Facility. The facility shall:

a. serve meals in a relaxed atmosphere that promotes utilization of newly learned skills in socialization and communication;

b. maintain sanitation of dishes;

c. ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects; and

d. ensure that animals are not permitted in food storage, preparation, and dining areas.

4. Responsibility. Facility retains responsibility to assure that meal preparation/service with client participation meets all requirements listed above and to supervise adequately to ensure compliance.

a. The program shall define duties in writing and have written instructions posted or easily accessible to clients.

b. If menu planning and independent meal preparation are part of the client's treatment program, a licensed dietitian shall:

i. approve the client training curriculum; and

ii. provide training or approve a training program for staff who instruct and supervise clients in meal preparation.

5. Contract Services. Meal preparation/service may be provided by contract service. However, facility is responsible for ensuring that all standards above are met.

C. Adolescent/Children Requirement

1. Staffing. All requirements are in addition to §7431.

a. Twenty-four-hour facilities require that the qualified professional counselor ratio to clients shall be no higher than 1:8 during waking hours. A minimum of two staff persons shall be present at all times. A qualified professional counselor shall be on call at all times. Program sponsored activities away from the facility require staff to client ratio no higher than 1:5 with a minimum of two adults at all times.

b. Clients shall be under direct supervision at all times.

i. Onsite, staff shall be readily available at all times, preferably within eyesight or hearing distance. If clients are not within eyesight, staff shall conduct visual checks at least once every hour, including bed checks.

ii. Offsite, clients shall be within eyesight at all times.

2. Educational Resources. Programs for school age children shall provide Department of Education-approved opportunity for clients to maintain grade level and continuity of education during any treatment lasting longer than 14 days unless treatment occurs during school vacation.

3. Physical Plant

a. Residential facilities shall have separate bedrooms and bathrooms for adults and adolescents and for males and females.

b. Adults and adolescents shall not be housed in the same area.

4. Family Communications. The facility shall allow regular communication between an adolescent client and the client's family and shall not arbitrarily restrict any communications without clear, written, individualized clinical justification documented in the client record.

D. Dependent Care. A program that designed to provide substance abuse treatment to mothers with dependant children who remain with parent while the parent is in treatment.

1. Treatment Services

a. Weekly individual and group counseling or family therapy shall be conducted by qualified professional with appropriate experience.

b. Parenting classes shall be provided weekly. Attendance is required.

c. The program shall address the specialized needs of the parent and include services for children.

d. Education, counseling, and rehabilitation services shall address:

i. the effects of chemical dependency on a woman's health and pregnancy;

ii. parenting skills; and

iii. health and nutrition.

e. The program shall have a procedure to regularly assess parent-child interactions. Any identified needs shall be addressed in treatment.

f. Program staff shall provide access to family planning services.

2. Staffing. All requirements are in addition to §7431.

a. Qualified trained professionals shall provide constant supervision appropriate to age of each child.

b. The program shall provide or arrange for child care with a qualified provider while the parent participates in treatment activities. Before supervising children independently, the provider shall have infant CPR certification and at least eight hours training in the following areas:

- i. chemical dependency and its impact on the family;
- ii. child development and age-appropriate activities;
- iii. child health and safety;
- iv. universal precautions;
- v. appropriate child supervision techniques; and
- vi. signs of child abuse.

c. Every children's program shall have an employee or consultant who is available to provide staff training, evaluate effectiveness of direct care staff, and plan activities, etc. for at least one hour per week per child. This employee shall meet the following educational requirements:

- i. ninety clock hours of education and training in child development and/or early childhood education; and
- ii. one year of documented experience providing services to children.

d. When staff are responsible for children, the staff-to-child ratio shall not exceed 1:3 for infants (18 months and younger) and 1:6 for toddlers and children. Clients shall not supervise another parent's children without written consent from the legal guardian and staff approval.

3. Special Considerations

a. Staff shall not allow anyone except the legal guardian or a person authorized by the legal guardian to take a child away from the facility. If an individual shows documentation of legal custody, staff shall record the person's identification before releasing the child.

b. Facility shall have written policy/procedure regarding parent abuse and/or neglect of a child.

c. Residential programs shall not accept dependents over the age of 12 without specific variance approval of OAD and HSS.

d. Children over the age of 6 shall not share a bedroom with a member of the opposite sex who is not in the child's immediate family.

e. The program shall ensure that children are directly supervised by parents or qualified providers at all times.

f. The program shall have a written policy and a current schedule showing who is responsible for the children at all times.

g. The daily activity schedule shall include a variety of structured and unstructured age-appropriate activities.

h. The program shall provide a variety of age-appropriate equipment, toys, and learning materials.

i. School age children shall have access to school.

j. Standards protecting the health, safety, and welfare of clients also apply to their children.

k. Behavior management shall be fair, reasonable, consistent, and related to the child's behavior. Physical discipline is prohibited.

4. Safety Practices

a. The evacuation procedures shall include provisions for children approved by the fire marshal.

b. The program shall not allow children to use:

- i. climbing equipment or swings on or near concrete or asphalt;
- ii. toys that explode or shoot things;
- iii. other sharp or dangerous items; or
- iv. toys and equipment in disrepair.

c. The program shall have safeguards to prevent children from using toys that are dangerous because they are not age-appropriate.

d. The program site shall meet the additional physical plant requirements as required for children.

5. Health Practices

a. The program shall have procedures for isolating parents and children who have communicable diseases and providing them with appropriate care and supervision.

b. The program shall keep current immunization records for each child at the program site.

c. The program shall obtain a consent to obtain emergency medical care for each child at admission.

d. Each child shall have an assessment by a medical doctor and/or advanced practice registered nurse within 96 hours of admission. Copies of an assessment performed up to seven days before admission are deemed to meet this requirement.

e. The program shall provide potty chairs for small children and sanitize them after each use.

f. The program shall provide age-appropriate bathing facilities. Infants shall not be bathed in sinks.

g. Staff, volunteers, and parents shall use universal precautions when caring for children other than their own.

h. The program shall ensure that children are clean and appropriately dressed.

i. Staff shall check all diapers frequently, change without delay, and dispose of the diapers in a sealed container and sanitize the changing area.

j. The program shall provide an adequate diet for childhood growth and development, including two snacks per day.

k. Children's medication shall be given according to the label by the parent or a licensed health professional. The facility shall obtain written consent from the parent to administer the medication, as required. The facility shall assume full responsibility for the proper administration and documentation of medication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:1473 (July 2000).

§7447. In-patient Detoxification Programs

A. Types. All requirements are in addition to core requirements.

1. Medically Supported. Professional medical and nursing coverage available as determined by the needs of clients admitted for detoxification in a non-hospital residential setting.

2. Non-medical. Semi-skilled observation, monitoring and treatment by trained para-professionals, for those clients who have been medically approved, and whose detoxification process can be predicted.

NOTE: Medical detoxification is not covered under this licensure as it involves professional level continuous observation, monitoring and treatment for those clients whose detoxification process cannot be predicted due to unstable physical condition or other relevant conditions. Louisiana has only hospital-affiliated medical detoxification programs.

B. Staffing. All requirements are in addition to §7431 unless otherwise noted.

1. Medically Supported Detoxification. Facility shall have qualified professional medical, nursing, and other support staff necessary to provide services appropriate to the needs of clients being admitted to the program.

a. QPS: 10 hours per week per 10 clients.

b. QPC: 40 hours per week per 10 clients-may be combination of two or more professional disciplines.

2. Non-medical Detoxification-personnel shall consist of professional and other support staff who are adequate to meet the needs of the clients admitted to the facility.

a. QPS: available by telephone for consultation.

b. QPC: 40 hours per week per 25 clients-may be combination of two or more professional disciplines.

3. Designated medical director may be consultative only.

C. Emergency Admissions. The admission assessment process may be delayed only until the client can be interviewed, but no longer than 24 hours unless seen by a physician. Facilities are required to orient direct care employees to monitor, observe and recognize early symptoms of serious illness and to access emergency services promptly.

D. Minimum Standards of Practice

1. History. The program shall obtain enough medical and psycho-social information about the client to provide a clear understanding of the client's present status. Exceptions shall be documented in client record.

2. Medical Clearance/Screening

a. Medically Supported. Medical history and physical examination completed during the 24 hours preceding admission is acceptable, if it is approved by the program's physician or advanced practice nurse. A medical history shall be completed within 24 hours and a physician's examination within 72 hours, unless emergency occurs.

b. Non-medical. Medical screening upon arrival, by First Responder, or equal as reflected in §7423, "Health and Safety," with telephone access to RN or MD for instructions for the care of the client.

3. Toxicology/Drug Screening

a. Medically Supported. Physician may waive drug screening if and when client signs list of drugs being abused and understands that his/her dishonesty could result in severe medical reactions during detoxification process.

b. Non-medical. Clients who require drug screening shall be transferred to Medically Supported or Medical Detoxification Program until stabilized.

4. Stabilization Plan. Qualified professional shall identify the client's short term needs based on the detoxification history, the medical history, and the physical examination, if available and prepare a plan of action until client becomes physically stable.

5. Detoxification Plan

a. Medically Supported. The detoxification plan shall be reviewed and signed by the physician and the client, and shall be filed in the client's record within 24 hours of admission with updates as needed.

b. Non-medical. The detoxification plan shall be reviewed and signed by the counselor and the client, and shall be filed in the client's record within 24 hours of admission with updates as needed.

6. Detoxification Notes. The program shall implement the detoxification plan and document the client's response to and/or participation in scheduled activities. Notes shall include:

a. the client's physical condition, including vital signs;

b. the client's mood and behavior;

c. client statements about the client's condition and needs; and

d. information about the client's progress or lack of progress in relation to detoxification goals; and

e. additional notes shall be documented as needed.

7. Physicians' Orders. When applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:1476 (July 2000).

§ 7449. Primary Residential Treatment Programs

A. General. All requirements are in addition to core requirements. Programs shall include:

1. continuous monitoring, observation, and treatment modalities using the 12-step program design;

2. at least 25 hours of structured treatment activities per week including counseling and educational activities. At least three additional hours must be organized social and/or recreational activities.

B. Staffing. All requirements are in addition to §7431, with the exception of a pharmacist.

1. QPS shall be on duty as needed, but at least 10 hours per week to assure close supervision and individualized treatment.

2. QPC shall be on-duty whenever counseling is being provided. If counseling is needed after customary hours, counselor shall be available to be on-duty.

3. Caseload shall not exceed 1:15. Size of counseling groups shall be determined by the needs of clients, but shall not exceed 12 clients.

C. Client Functional Status. Client shall be medically/mentally stable and/or without conditions other

than AA/DD that require daily or more frequent monitoring, medications or treatments.

D. Special Requirements. Weekly treatment plan review with documentation by all appropriate disciplines at least once during the first two weeks of treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:1476 (July 2000).

§7451. Inpatient Primary Treatment

A. General. All requirements are in addition to core requirements. Programs shall include:

1. continuous monitoring, observation, and treatment modalities using the twelve-step program design or other models by appropriate medical and psychiatric support personnel;

2. at least 25 hours of structured treatment activities per week including counseling and educational activities. At least three additional hours must be organized social and/or recreational activities; and

3. non-acute therapeutic regime including medical and psychiatric care, as needed.

B. Staffing. All requirements are in addition to §7431.

1. QPS: 15 hours per week per 25 clients to also provide therapy.

2. QPC: 40 hours per week per 15 clients.

3. Caseload shall not exceed 1:12 unless prior approved by OAD and HSS.

4. Nursing. Registered nurse is required at least 40 hours per week per 50 clients. Additionally, nursing functions may be supplemented by licensed practical nurses, if a registered nurse or physician is on-duty/on-call in accordance with §7401.

C. Client Functional Status. Clients may require psychiatric and/or medical/nursing care in addition to substance abuse services. Facility may utilize tiered system with client progression to Residential Treatment level of care, however, client must meet the functional status requirements and the facility must designate.

D. Special Requirements

1. Weekly treatment plan review shall be documented by all disciplines involved in care of client to assure continuity of care.

2. Emergency Power. Facilities with capacity greater than 50 clients shall have a reliable, adequately sized emergency power system. The emergency power system is powered by a generator set or battery system, where permitted, to provide power during an interruption of normal electrical service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

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(January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:1477 (July 2000).

§7453. Community-Based Programs

A. General. All requirements are in addition to core requirements. Programs shall include:

1. transitional living, support and counseling, room and board, social and recreational activities and vocational opportunities;

2. structured, drug-free environment to allow client to maintain or to improve upon the gains made during prior treatment or currently being made in treatment;

3. opportunities for the client to focus on re-socialization and to gradually resume responsibilities associated with independent living; and

4. provision of services in halfway and three quarter houses.

B. Staffing. All requirements are in addition to §7431.

1. QPS: available by telephone for consultation.

2. QPC: counselor must be on-duty when majority of clients are awake and on-site.

Caseload shall not exceed 1:25 unless prior approved by OAD and HSS.

3. House Manager. non-treatment, direct care person who supervises activities of the facility when the professional staff is on call, but not on duty. This person is required to have adequate orientation and skills to assess situations related to relapse and to provide access to appropriate medical care when needed.

C. Client Functional Status. Clients shall be capable of increasing life responsibilities or be additionally enrolled in primary treatment. If clients are admitted who are also receiving primary treatment, then facility shall meet requirements of Residential Treatment and facility is expected to employ additional professional staff as needed.

D. Special Considerations. Treatment plan review shall be documented in progress notes monthly by all disciplines involved in care of client to assure continuity of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

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§7455. Therapeutic Community (Long Term Residential)

A. General. All requirements are in addition to core requirements. Facilities shall provide:

1. highly structured environments designed to treat those clients who have demonstrated a pattern of recidivism or a need for long term residential treatment;

2. graduated levels of increasing responsibility, functional capacity, autonomy, privilege, and authority to promote emotional and interpersonal growth through experience or expectation, accountability, support, evaluation, and both favorable and unfavorable consequences for behavior.

B. Staffing. All requirements are in addition to §7431.

1. QPS: additionally, five hours per week to provide supervision and individual treatment as indicated.
2. QPC: 40 hours per week per 20 clients.
3. Caseload-not to exceed 1:20 unless prior approval granted by OAD and HSS.
4. Senior Clients may be utilized as volunteers to assist in the recovery process, provided that facility staff is on-site and immediately available if needed.

C. Client Functional Status. Upon admission, client must require constant supervision and monitoring to maintain stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1057.1-9, redesignated R.S. 40:1058.1-9.

HISTORICAL NOTE: Promulgated by Health and Human Resources Administration, LR 2:154 (May 1976), amended by the Department of Health and Human Resources, Office of Hospitals, Bureau of Substance Abuse, LR 3:16 (January 1977), amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 12:26 (January 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:1477 (July 2000).

David W. Hood
Secretary

0007#047

RULE

Department of Health and Hospitals Office of Management and Finance

Health Care Services Provider Fees (LAC 48:I.4001-4011)

The Department of Health and Hospitals, Office of Management and Finance adopts LAC 48.I.Chapter 40 pursuant to R.S. 46:2601-2605 and the Administrative Procedure Act, R.S. 49:950 et seq. This rule amends and repromulgates regulations pertaining to the administration of fees; and the rights and obligations of those on whom such fees are imposed as previously published in the *Louisiana Register* (Vol.19No.3, Vol.20No.1 and Vol.20No.10). The department is adding a procedure to be used in estimating the amount of fees due in cases of failure to report, and is revising the procedures for collecting delinquent fees to insure more prompt collection. The department is also revising the nonsufficient fund check regulation in order to avail itself of the full benefits of R.S. 9:2782.

LAC 48.Chapter 40 is published in its entirety to establish uniformity and to properly codify this Chapter for inclusion in the Louisiana Administrative Code and supersedes all previous rules adopted in connection with the subject of provider fees.

Title 48

PUBLIC HEALTHB GENERAL

Part I. General Administration

Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. Definition

*Quarter*C for purposes of this Chapter, *quarters* shall be constituted as follows:

First Quarter	December, January, February
Second Quarter	March, April, May
Third Quarter	June, July, August
Fourth Quarter	September, October, November

B. Nursing Facility Services

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

2. The provider fee imposed for nursing facility services shall not exceed 6 percent of the average revenues received by providers of that class of services and shall not exceed \$10 per occupied bed per day. The fee amount shall be calculated annually in conjunction with updating provider reimbursement rates under the Medical Assistance Program. Notice to providers subject to fees shall be given in conjunction with the annual rate setting notification by the Bureau of Health Services Financing.

C. Intermediate Care FacilityCmentally Retarded (ICF-MR) Services

1. A bed fee shall be paid by each facility licensed as an intermediate care facility for the mentally retarded in accordance with R.S. 28:421 et seq., for each bed utilized for the provision of care on a daily basis. The fee shall be imposed for each bed per day utilized for the provision of care. A bed shall be considered in use, regardless of physical occupancy, based on payment for ICF-MR facility services available or provided to any individual or payer through formal or informal agreement. For example, a bed reserved and paid for during a temporary absence from a facility shall be subject to the fee. Likewise, any bed or beds under contract to a Hospice shall be subject to the fee for each day payment is made by the Hospice. Contracts, agreements, or reservations, whether formal or informal, shall be subject to the fee only where payment is made for ICF-MR facility services available or provided. ICF-MR facilities subject to bed fees shall provide documentation quarterly, on a form provided by the department, of utilization for all licensed beds in conjunction with payment of the fee.

2. The provider fees imposed for ICF-MR facility services shall not exceed 6 percent of the average revenues received by providers of that class of service and shall not exceed \$30 per occupied bed per day. The fee amount shall be calculated annually in conjunction with updating provider reimbursement rates under the Medical Assistance Program. Notice to providers subject to fees shall be given in

conjunction with the annual rate setting notification by the Bureau of Health Services Financing.

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

E. Transportation Services. The fee for transportation services shall be set at \$0.00 pending federal designation of transportation services as a medical provider grouping under P.L. 102-234. Medical transportation providers shall not be required to provide utilization data under this rule.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and PL 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000).

§4003. Due Date for Submission of Reports and Payment of Fees

A. The department will mail a Quarterly Utilization Report to each licensed provider covered under the scope of this statute at the address given in the last report filed pursuant to the provisions of R.S. 46:2601-2605. The provider shall promptly notify the department of any change of address. Quarterly Utilization Reports and fees shall be submitted to the department and shall be due on the twentieth calendar day of the month following the close of the quarter and shall be deemed delinquent on the thirtieth calendar day of that month. Even if no fee is due, submission of the report is still mandatory.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 26:1479 (July 2000).

§4005. Delinquent and/or Unfiled Reports

A. Penalty Assessment. In the case a report has been determined delinquent, the specific penalty shall be 5 percent of the total fee due on the report for every 30 days or fraction thereof that the report is not filed, not to exceed 150 days. When a report is not received within 150 days from due date, the report shall be deemed not filed and there shall be cause for an audit, investigation or examination to be made by the department.

B. Estimation of Provider Fee Due. In those cases in which a health care provider fails to file the Quarterly Utilization Report, the department will estimate the provider fee due. The department will, by certified mail, notify the

provider of the estimated fee due, the method used to calculate the estimate and the department's intent to collect the delinquent fee. The provider shall have 10 days from the date of receipt of the notice to file a provider fee report with the department. Any provider who fails to file the Quarterly Utilization Report within 10 days of the date of receipt of the department's estimated provider fee notice shall waive any and all rights to appeal the department's action and to contest payment of the estimated fee.

C. Incorrect Reporting. If a provider submits a report required by the provisions of this Chapter and the report made and filed does not correctly compute the liability of the provider there shall be cause for an audit, investigation or examination to be made by the department.

D. False or Fraudulent Reporting. When a provider files a report that is false or fraudulent or grossly incorrect and the circumstances indicate that the provider had intent to defraud the state of Louisiana of any fee due under this Chapter, there shall be imposed, in addition to any other penalties provided, a specific penalty of 50 percent of the fee due.

E. Reimbursement of Audit, Hearing, and Witness Costs. If actions by a provider cause the department to examine books, records, or documents, or undertake an audit thereof, and/or conduct a hearing, and/or subpoena witnesses, then the provider shall be assessed an amount as itemized by the department to compensate for all costs incurred in making such examination or audit, and/or in holding such hearing, and/or in subpoenaing and compensating witnesses.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 26:1479 (July 2000).

§4007. Delinquent and/or Unpaid Fees

A. Interest on Unpaid Provider Fees. When the provider fails to pay the fee due, or any portion thereof, on or before the date it becomes delinquent, interest at the rate of 12 percent per month compounded daily shall be assessed on the unpaid balance until paid. In the case of interest on a penalty assessed, such interest shall be computed beginning 15 days from the date of notification of assessment until paid.

B. Collection of Delinquent Provider Fee

1. For those enrolled as health care providers in the Louisiana Medical Assistance Program (Medicaid) collection of delinquent provider fees will be as follows.

a. The department will withhold from the provider's Medicaid reimbursement check, an amount equal to 50 percent of the reimbursement check or the actual amount of the delinquent provider fee, including interest and penalty, whichever is less.

b. By enrolling and participating in the Louisiana Medical Assistance Program (Medicaid) a provider agrees that during the period of time delinquent provider fees are being collected, no additional provider fee delinquency will occur. If the provider becomes further delinquent, the department will withhold 100 percent of the Medicaid reimbursement or the actual amount of the delinquent provider fees, including interest and penalty, whichever is less.

2. For those health care providers not enrolled in the Louisiana Medical Assistance Program (Medicaid), the department will avail itself of any and all appropriate legal and judicial remedies in the collection of delinquent provider fees.

C. Nonsufficient Fund (NSF) Checks in Payment of Fee. A specific service charge, in accordance with R.S. 9:2782(B) as it may be amended from time to time, shall be imposed on all NSF checks. The tender of three NSF checks shall be cause for an audit, investigation or examination to be made by the department, and the provider will be required to make payment thereafter by certified check or money order.

D. The department shall refund any overpayment to the provider.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), LR 20:1114 (October 1994) amended LR 20:1114 (October 1994), LR 26:1479 (July 2000).

§4009. Appeals

A. Any provider aggrieved pursuant to the provisions determined herein shall have the right to administrative appeal as specified in R.S. 46:107.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), re-promulgated LR 26:1480 (July 2000).

§4011. Exceptions

A. The secretary may exempt any assessment of penalty and interest described in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 26:1480 (July 2000).

David W. Hood
Secretary

0007#049

RULE

**Department of Health and Hospitals
Office and Management and Finance**

**Medicare Rural Hospital Flexibility Program (MRHF)
Critical Access Hospitals (LAC 48:I.7601 and 7609)**

The Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development is amending the rule in the Medicare Rural Hospital Flexibility Program (MRHF) as authorized by the Balanced Budget Act of 1997 (Public Law 105-33) and pursuant to Title XVIII of the Social Security Act. This rule is in accordance with the Medicare, Medicaid, State Children's Health Insurance Programs (SCHIP) Balanced

Budget Refinement Act of 1999. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

This emergency rule will amend the rule published in the *Louisiana Register*, Vol. 25, No. 8, pp. 1478-1480, August 20, 1999 by expanding the definition of "rural," and changing other criteria to allow additional hospitals to participate in the Medicare Rural Hospital Flexibility Program (MRHF). The Program assists rural communities in improving access to essential care through the establishment of Critical Access Hospitals (CAH) which are limited service hospitals eligible for Medicare certification and cost based reimbursement.

This action is necessary to avoid imminent peril to the public welfare served by small rural hospital facing closure due to financial problems.

Rule

Effective July 20, 2000, the Department of Health and Hospitals, Division of Research and Development, will expand the criteria for participation in the Medicare Rural Hospital Flexibility Program (MRHF) which will make additional rural hospitals eligible to participate as limited service hospitals eligible for Medicare certification and reimbursement. To qualify as a CAH, the small rural hospital must complete the following designation, licensing, and certification processes.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 76. Medicare Rural Hospital Flexibility Program (MRHF)

Subchapter A. Critical Access Hospitals

§7601. Definitions

A. ...

Rural may be in a rural census tract in a Metropolitan Statistical Area (MSA) as determined under the Goldsmith Modification, originally published in the *Federal Register* on February 27, 1992; or

a. has no more than 60 hospital beds as of July 1, 1994; and

(i). is located in a parish with a population of less than 50,000; or

(ii). is located in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR 412.92(a); or

c. has no more than 60 hospital beds as of July 1, 1999, and is located in a parish with a population, as measured by the 1990 census, of less than 17,000.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balanced Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1478 (August 1999), amended LR 26:1480 (July 2000).

§7603. Criteria for Designation as a CAH

A. ...

1. be a licensed hospital;

2.-4.b. ...

c. Provides not more than 15 acute care inpatient beds, meeting such standards as the secretary may establish,

for providing inpatient care that does not exceed, as determined on an annual, average basis, 96 hours per patient.

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balanced Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 25:1479 (August 1999), amended LR 26:1480 (July 2000).

§7609. Application Submission and Review

A.-B. ...

C. The supporting information to be included with the application is:

1. documentation of ownership, including names of owners and percent of ownership;

2.-4. ...

AUTHORITY NOTE: Promulgated in accordance with the Balanced Budget Act of 1997 (P.L. 105-33) and Title XVIII of the Social Security Act; amended by Medicare, Medicaid, SCHIP Balanced Budget Refinement Act of 1999.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, Division of Research and Development, LR 25:1479 (August 1999), amended LR 26:1481 (July 2000).

David W. Hood
Secretary

0007#083

RULE

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code Plumbing (Chapter XIV)

The Department of Health and Hospitals, Office of Public Health (DHH-OPH) hereby amends Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana. This rule change will replace in its entirety Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana, promulgated September 20, 1992. The new Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana is to be comprised of the 1994 edition of the Standard Plumbing Code⁸ as modified by the 1999 Louisiana Amendments to the 1994 Standard Plumbing Code⁸. The 1994 Standard Plumbing Code⁸ is a copyrighted document published by the Southern Building Code Congress International, Inc. (SBCCI) and is recognized as one of several national model plumbing codes. The SBCCI will incorporate the 1999 Louisiana Amendments into the text of their 1994 Standard Plumbing Code⁸ and will print a separate copyrighted document called the "Louisiana State Plumbing Code." The SBCCI will sell the "Louisiana State Plumbing Code" at the same price as they currently sell the 1994 Standard Plumbing Code⁸, i.e., \$38 to a SBCCI member and \$57 to a SBCCI non-member.

This rule is to be adopted by the state health officer in accordance with R.S. 40:4, approved by the secretary of the Department of Health and Hospitals in accordance with R.S. 40:2, under the general powers and jurisdiction of the state health officer and the Office of Public Health in accordance with R.S. 40:5, and promulgated in accordance with R.S. 49:950 et seq. This rule has no known impact on family

formation, stability, or autonomy, as described in R.S. 49:972.

The rule is as follows.

Sanitary Code, State Of Louisiana

Chapter XIV (Plumbing)

14:001 Adoption of Louisiana State Plumbing Code

The Department of Health and Hospitals, Office of Public Health hereby adopts Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana to be comprised of the 1994 edition of the Standard Plumbing Code⁸ as modified by the 1999 Louisiana Amendments to the 1994 Standard Plumbing Code⁸. The 1994 Standard Plumbing Code⁸ is a copyrighted document published by the Southern Building Code Congress International, Inc. (SBCCI) and is recognized as one of several national model plumbing codes. The SBCCI will incorporate the 1999 Louisiana Amendments into the text of their 1994 Standard Plumbing Code⁸. After the Office of Public Health has proofread and approved the combined document to ensure accuracy and consistency with the 1999 Louisiana Amendments, SBCCI will print a separate copyrighted document entitled the "Louisiana State Plumbing Code." The "Louisiana State Plumbing Code" shall be synonymous to "Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana."

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 18:618 (June 1992), LR 26:1481 (July 2000).

14:002 Availability

Information concerning purchasing copies of the Louisiana State Plumbing Code may be obtained by contacting the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, (205) 591-1853 or by contacting the Chief Sanitarian, Office of Public Health, 6867 Bluebonnet Boulevard, Box 9, Baton Rouge, LA 70810, telephone (225) 763-5553 or fax (225) 763-5552.

In addition, the Office of Public Health will purchase at least 33 copies of the Louisiana State Plumbing Code to be given to the Office of the State Library for distribution to various libraries designated as a recorder of state documents. Copies will be provided to the following libraries: LSU-BR, La Tech, UNO, LSU-Shreveport, McNeese, USL, NE La Univ., N.O. Public, NW La Univ., Nicholls, SE La Univ., Jefferson Parish Public (E & W), La College, Nunez Comm., Loyola, Southern-BR, Southern Univ. Law, SUNO, Shreve Memorial, Loyola Law, LSU Medical, Delgado, La Supreme Court, E.B.R. Public, Legislative Library, Grambling, Tulane, Library of Congress, State Library-BR, and the Recorder of State Documents in the Office of State Library. This will enable the general public to review and otherwise have accessibility to the document without the need to individually purchase a copy.

Copies of the Louisiana State Plumbing Code will also be provided to and may be reviewed (pursuant to a request to review public record) at the Office of Public Health's Division of Environmental Health's Central Office in Baton Rouge, any of the 9 Regional Engineering/Sanitarian offices, or any of the 64 Parish Health Unit sanitarian offices

generally between the hours of 8:00 a.m. and 4:30 p.m. on regular work days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 18:618 (June 1992), LR 26:1481 (July 2000).

14:003 Effective Date

This rule shall become effective on October 20,2000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 18:618 (June 1992), LR 26:1482 (July 2000).

14:004 1999 Louisiana Amendments

The 1999 Louisiana Amendments to the 1994 Standard Plumbing Code⁸ are attached as follows (numerical citations comport with 1994 Standard Plumbing Code⁸ format):

These amendments can be viewed at any Office of Public Health regional office or at the Division of Environmental Health's central office. (See addresses in the following Summary paragraph.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 18:618 (June 1992), LR 26:1482 (July 2000).

Copies of the 1999 Louisiana Amendments to the 1994 Standard Plumbing Code⁸ may be obtained by contacting the Chief Sanitarian, Office of Public Health, 6867 Bluebonnet Boulevard, Box 9, Baton Rouge, LA 70810, telephone (225) 763-5553 or fax (225)763-5552.

David Hood
Secretary

0007#0045

RULE

**Department of Insurance
Office of the Commissioner**

Regulation 70C Replacement of Life Insurance and Annuities (LAC 37:XIII.Chapter 89)

Editor's Note: This section is being reprinted to correct a typographical error. The rule may be viewed in its entirety in the July 20, 2000 edition of the *Louisiana Register*.

Under the authority of R.S. 22:3 et seq., R.S. 22:644.1 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance adopts the following proposed regulation, with the exception of §8909, to become effective July 1, 2000. This intended action complies with the statutory law administered by the Department of Insurance.

§8921. Appendix A

IMPORTANT NOTICE:

REPLACEMENT OF LIFE INSURANCE OR ANNUITIES

(Note: This document must be signed by the applicant and the producer, if there is one, and a copy left with the applicant)

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A *replacement* occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on an existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A *financed purchase* occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interest. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? YES NO

2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? YES NO

If you answered "yes" to either of the above questions, list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured or annuitant, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED OR ANNUITANT	REPLACED (R) OR FINANCING (F)
1.			
2.			
3.			

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. If you request one, an in force illustration, policy summary or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because

I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant's Signature and Printed Name Date

Producer's Signature and Printed Name Date

I do not want this notice read aloud to me. _____ (Applicants must initial only if they do not want the notice read aloud.)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future

based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS:

C Are they affordable?

C Could they change?

C You're older—are premiums higher for the proposed new policy?

C How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES:

C New policies usually take longer to build cash values and to pay dividends.

C Acquisition costs for the old policy may have been paid; you will incur costs for the new one.

C What surrender charges do the policies have?

C What expense and sales charges will you pay on the new policy?

C Does the new policy provide more insurance coverage?

INSURABILITY:

C If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.

C You may need a medical exam for a new policy.

C Claims on most new policies for up to the first two years can be denied based on inaccurate statements.

C Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:

C How are premiums for both policies being paid?

C How will the premiums on your existing policy be affected?

C Will a loan be deducted from death benefits?

C What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

C Will you pay surrender charges on your old contract?

C What are the interest rate guarantees for the new contract?

C Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

C What are the tax consequences of buying the new policy?

C Is this a tax free exchange? (See your tax advisor.)

C Is there a benefit from favorable "grand-fathered" treatment of the old policy under the federal tax code?

C Will the existing insurer be willing to modify the old policy?

C How does the quality and financial stability of the new company compare with your existing company?

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:1482 (June 2000).

James H. "Jim" Brown
Commissioner of Insurance

0007#013

RULE

**Department of Natural Resources
Office of the Secretary**

Oyster Lease Relocation Program (LAC 43:I.875-895)

In accordance with the laws of the state of Louisiana, and with reference to the provisions of Title 56 of the Louisiana Revised Statutes of 1950, the secretary of the Department of Natural Resources hereby adopts LAC 43:I.875 as follows.

Title 43

NATURAL RESOURCES

Part I. Office Of The Secretary

Chapter 8. Coastal Restoration

Subchapter C. Rules Governing Davis Pond Oyster Relocation Program

§875. Purpose

A. These special rules are adopted pursuant to R.S. 56:432.1, et seq. to provide for the filing and processing of applications for, and for the fair and expeditious relocation of, oyster beds in the Davis Pond Oyster Influence Area (the program). These rules supercede the provisions of Subchapter B insofar as Subchapter B may otherwise apply to the Davis Pond Oyster Influence Area.

B. Pursuant to R.S. 56:432.1E., these rules are intended to implement federal plans, programs and requirements regarding the Davis Pond Freshwater Diversion Project Feature of the Mississippi Delta Region Project, (Project) constructed pursuant to the Flood Control Act of 1928, public law 391 of the 70th Congress, as amended by the Flood Control Act of 1965, public law 89-298, the Water Resources Development Act of 1986, public law 99-662, Section 365 of the Water Resources Development Act of 1996, Public Law 104-303, and the Water Resources Development Act of 1999, public law 106-53 and shall so be interpreted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1483 (July 2000).

§877. Definitions

Active Lease Any oyster lease currently on record with the Louisiana Department of Wildlife and Fisheries located in whole or part within the Davis Pond Oyster Influence Area for which all fees have been paid for the current term of the lease.

Affected Lease Can active lease determined pursuant to these rules to be productive.

Davis Pond Oyster Influence Area That area of the Barataria Bay estuary north of the five parts per thousand isohaline line delineated in Volume 1, Plate 10 of the Louisiana Coastal Area Feasibility Study, dated September, 1984.

Coastal Restoration Project Area Geographical extent of a Coastal Restoration Project as delineated by the responsible government agency or agencies for that Project.

Department the Louisiana Department of Natural Resources, its secretary, or the secretary's designee.

Department of Wildlife and Fisheries the Louisiana Department of Wildlife and Fisheries, its secretary, or the secretary's designee.

Exchange Lease(s) a lease or leases, located entirely outside of any Coastal Restoration Project Area and entirely outside Davis Pond Oyster Influence Area, received by a leaseholder in exchange for an affected lease pursuant to §883.

Leaseholder the lessee of an oyster lease granted by the Department of Wildlife and Fisheries pursuant to La. R.S. 56:425 et seq., as appears on records provided and maintained by the Department of Wildlife and Fisheries.

Replacement Lease(s) a lease or leases located entirely outside any Coastal Restoration Project Area, and outside Davis Pond Oyster Influence Area, selected by the leaseholder in accordance with §885.E.

Relocation Cultch Material the quantity of material allowed by the department to substitute for the reef and shell/cultch substrate areas on an affected lease and comparable to those amounts used by the Department of Wildlife and Fisheries in establishing the public seed ground areas.

Productive Lease An active lease found by the secretary to have a suitable substrate that is capable of sustaining commercial oyster production, and is in a location on the Melancon maps as having an appropriate salinity regime to sustain oyster production and is not in a Louisiana Department of Health and Hospitals "prohibited area" as delineated according to applicable statutes and regulations in effect on the date the election is made. If an active lease does not meet these criteria, the leaseholder may submit to the secretary within 60 days after the date the election is made additional information to substantiate in accordance with the requirements of §895, that the particular lease is capable of sustaining commercial oyster production, and on the basis of such information and any other information, the secretary shall determine whether or not the lease is productive for the purposes of this regulation. Melancon, E. J., Jr. et al. 1998 *Journal of Shellfish Research*. 17(4):1143-1148.

Secretary the secretary of the Department of Natural Resources or the secretary's designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1483 (July 2000).

§879. Notification of Leaseholders

A. The secretary shall make a reasonable effort to provide notice of the program to all affected leaseholders.

B. The secretary shall send to leaseholders of affected leases a notice including the following:

1. a description and map of the Davis Pond Oyster Influence Area;
2. a copy of these regulations;
3. a statement informing the leaseholder that the leaseholder's desire to participate in the program must be confirmed in writing and delivered by certified mail to the secretary within 30 days of the date of receipt of the notice. The statement shall also inform the leaseholder that, if such confirmation not be received timely, the leaseholder shall be deemed to have elected not to participate in the program;

4. a statement informing the leaseholders that limited funding is available, and that available funds used to implement the program shall be distributed to participating leaseholders in the manner determined by the secretary pursuant to §891; and

5. a response form to be completed and returned to the department, which form shall provide information confirming the leaseholder's mailing address and the leaseholder's selection of a relocation option. The forms shall include an authorization granting the department or its contractors the right to enter the affected lease for the purpose of surveying and making an assessment of each affected lease.

C. Notice shall be deemed to have been made if sent by United States certified mail, return receipt requested, to the last address furnished to the Louisiana Department of Wildlife and Fisheries by the leaseholder.

D. The department will publish a list of all the leaseholders of affected leases in the official State Journals of the parishes where affected leases are located, notifying the leaseholders of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26: 1484 (July 2000).

§881. Leaseholder Options

A. Leaseholder(s) of affected lease(s) may select one option from those available in §883, 885, 887, and 889, except as otherwise provide in §887.B. Notwithstanding any other provision in these regulations to the contrary, any obligation of the department to expend funds shall be subject to the availability of funds as described in the provisions of §891.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1484 (July 2000).

§883. Exchange Option

A. The exchange of an affected lease, including the department's responsibility for payment of application and survey costs, shall be subject to the availability of funds as described in the provisions of §891.

B. A leaseholder may elect to exchange the affected lease for an exchange lease or leases as described in Subpart C. below which is acceptable to both the leaseholder and the Department of Wildlife and Fisheries. Lease exchanges shall be in accordance with R.S. 56:432.1.B.(1). Exchange leases shall begin a new term. Subject to the provisions of §883.A, the department shall reimburse the applicants for all application and survey costs.

C. If the leaseholder elects this option, the department shall notify the department of Wildlife and Fisheries. affected leases shall be exchanged for a maximum number of exchange leases as follows provided that the combined acreage of the exchange lease or leases shall not exceed the acreage of the affected lease by more than 10 percent.

1. affected leases between 0 and 20 acres in size shall be exchanged for no more than one exchange lease;

2. affected leases between 21 and 200 acres in size shall be exchanged for no more than two exchange leases; and

3. affected leases between 201 and 500 acres in size shall be exchanged for no more than three exchange leases;

4. affected leases between 501 and 1000 acres in size shall be exchanged for no more than four exchange leases.

D. Within 30 days of the department's receipt of the leaseholder's response required in accordance with §879.B, the leaseholder shall submit to the Department of Wildlife and Fisheries an application for an exchange lease or leases. Applications for exchange lease locations shall be submitted by the leaseholder and processed by the Department of Wildlife and Fisheries in accordance with the provisions of LAC Title 76, Chapter 5, §501, Oyster Leases, and subparts §883.B and C above.

E. Applications for exchange lease or leases shall be accompanied by a written request from the leaseholder to cancel the affected lease on December 31 of the calendar year immediately following the calendar year of application for the exchange lease. In the event that the term of the affected lease will expire prior to December 31 of the calendar year immediately following the calendar year of application for the exchange lease, the department shall request that the Department of Wildlife and Fisheries, in accordance with the provisions of R.S. 56:428.1, issue a one-year lease for that affected lease.

F. If the leaseholder fails to submit timely application for an exchange lease or leases, or fails to receive an exchange lease before the expiration date of the affected lease, the leaseholder shall be deemed to have made an election to retain the affected lease as provided in §887, effective as of December 31 of the calendar year following the last date allowed for submission of the application, and the request for cancellation of the affected lease shall be deemed withdrawn.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1484 (July 2000).

§885. Relocation Option

A. The relocation of an affected lease, including the department's responsibility for payment or reimbursement as provided in §885.C, shall be subject to the availability of funds, as described in the provisions of §891.

B. The leaseholder may elect to relocate the affected lease to a replacement lease. The affected lease shall be assessed by the department during the 1999 and 2000 calendar years, by any means, including but not limited to side-scan sonar, to determine the quantity of Relocation Cultch Material allowable to relocate the affected lease. The leaseholder shall cause the placement of that quantity of cultch material on a replacement lease.

C. Subject to the provisions of §885.A above, the secretary shall determine and provide the following:

1. reimbursement of the actual cost of placement of Relocation Cultch Material, but not in excess of the secretary's determination of reasonable and allowable costs made under the provisions of §885.D of this part;

2. reimbursement of the actual cost of relocation of any live seed oysters from the affected lease, but not in excess of the secretary's determination of reasonable and allowable costs made under the provisions of §885.D of this part.

D. The leaseholder of each affected lease shall be notified, in the initial notification, in accordance with §879 B, by certified registered United States Mail, postage pre-paid, or pre-paid receipted express delivery service, of the determination of the Relocation Cultch Material allowable for the existing lease, and the department's determination of the amount in dollars of reimbursement which is reasonable and allowable to:

1. effect the placement of the Relocation Cultch Material on the replacement lease(s) selected by the leaseholder; and

2. effect the relocation of any living seed oysters from the affected lease.

Upon such notification, the leaseholder shall have 30 days to notify the department in writing to either accept the reimbursement offer made by the department, to request purchase of the lease in accordance with §889, or to appeal in accordance with §895.

E. Upon acceptance of the relocation offer, the leaseholder shall have 90 days to notify the department of the date and the replacement lease by which the leaseholder will cause placement of the cultch; such date shall be no later than 12 months from the leaseholder's acceptance of the department's offer made in accordance with §885.D. The secretary may extend this period for good cause shown. Upon placement of the cultch, the leaseholder shall certify to the department, in writing, that such placement has occurred. Such certification shall be accompanied by receipts or invoices for the actual cost of the cultch placement, as well as the location and quantity of such placement. Payment for actual expenses incurred by the leaseholder shall be made pursuant to §891, but not in excess of the secretary's written determination of the level of reasonable and allowable compensation made in accordance with §885.D of this regulation.

F. If on the date the relocation option is made a leaseholder of an affected lease is not then the lessee of a replacement lease on which relocation cultch material can reasonably be placed, as determined by the secretary, reimbursement will be made for application fees and lease survey and marking costs of a new replacement lease for an area not in excess of the area of the affected lease by more than 10 percent. The leaseholder must, by written request, give notice to the Department of Wildlife and Fisheries and the department to cancel the affected lease on December 31 of the calendar year immediately following the calendar year of the department's receipt of the notification letter as provided for in §879. Payment to the leaseholder shall be withheld until the written cancellation notices are received. For good cause shown in writing by the leaseholder, the secretary may request the Department of Wildlife and Fisheries to extend the cancellation date of the affected lease, or may request that the Department of Wildlife and Fisheries to issue a one-year lease pursuant to R.S. 56:428.1.

G. Subject to the limitations of Paragraph G.1., below, the leaseholder shall have one year after the date on which the leaseholder's selection of the relocation option is mailed to the department in accordance with §879.B of this regulation to remove any living oysters, both seed and marketable, from the affected lease, at the sole risk and cost of the leaseholder, except for costs allowed in accordance with §885.C.2.

1. In the event that the department notifies the leaseholder that, due to implementation schedules of the Davis Pond Freshwater Diversion feature of the Mississippi Delta Region Project, less than one year will be available for the removal of living oysters, both seed and marketable, from the affected lease, the leaseholder may request that the department provide compensation for any project impacts, causing the loss of living oysters remaining on the affected lease. Subject to the availability of funds as described in the provisions of §891, the secretary may, at his discretion, determine the reasonable value of oysters not reasonably removable within the time available and offer compensation for reasonable and allowable losses.

2. In the event that the department notifies the leaseholder that due to delays in the Coastal Restoration Project implementation schedules, of the Davis Pond Freshwater Diversion feature of the Mississippi Delta Region Project, more than one year exists for the removal of living oysters from the affected leases, the secretary may, at his discretion, allow the leaseholder, to continue the removal of any living oysters, during the existence of the lease including renewals, provided that the leaseholder shall execute a receipt, release and hold harmless agreement in favor of the United States Government, including the U.S. Army Corps of Engineers, and the State of Louisiana, including the Louisiana Department of Natural Resources and the Louisiana Department of Wildlife and Fisheries, in accordance with the terms and provisions of the release, indemnity and hold harmless agreement set forth in §893 of this Agreement and shall provide that the lease is subservient and subordinate to the Davis Pond Freshwater Diversion feature of the Mississippi Delta Region Project, and to any other Coastal Restoration Project and that the leaseholder accepts the risks of continuing to remove living oysters in the area affected by the Project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1, et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1485 (July 2000).

§887. Retention Option

A. The leaseholder may elect to retain the affected lease without compensation. If the leaseholder elects to retain the affected lease, he shall execute a written release indemnification and hold harmless agreement in favor of the United States Government, including the U.S. Army Corps of Engineers, and the state of Louisiana, including the Louisiana Department of Natural Resources and the Louisiana Department of Wildlife and Fisheries, in accordance with the terms and provisions of the release, indemnity and hold harmless agreement set forth in §893 of this Agreement and this election shall stipulate that the retained lease is subservient and subordinate to the Davis Pond Freshwater Diversion feature of the Mississippi Delta Region Project, and to any Coastal Restoration Project, past, present or future, and that the leaseholder accepts all risks of operating in the area affected by such projects including, but not limited to all damage which may be sustained by or to the lease or the oysters located therein; however, the hold harmless agreement for the retention option must also provide the right of the leaseholder under §887.B to elect an alternative option within one year from the initial selection of the retention option.

B. Subsequent to an election to retain, and in accordance with the provisions of R.S. 56:432.1.B.(3), a leaseholder may seek to pursue another option specified in §883, §885, or §889. In such event, the leaseholder shall request the secretary's approval to utilize another option. The secretary shall make every reasonable effort to accommodate such requests. However, if all available funds have been previously expended pursuant to §891, such request shall be denied. The election of an additional option under this subpart must be made within one year from the official opening of the Davis Pond Freshwater Diversion Project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1, et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1486 (July 2000).

§889. Purchase Option

A. The department's purchase of an affected lease shall be subject to the availability of funds as described in provisions of §891.

B. The leaseholder may elect to request that the department purchase the affected lease. The department, at its discretion, may purchase the affected lease, together with all improvements for a purchase price not to exceed the allowable cost determined in §885.C.1, for the placement of cultch. The cost of seed oyster relocation, application fees and surveying and marking of new leases will not be included in the purchase price. Payment of the purchase price shall be subject to the provisions of §891.

C. Upon execution of a mutually agreeable purchase agreement, the affected lease shall be canceled on December 31 of the calendar year of purchase.

D. The leaseholder may, at its sole cost, risk, and expense, remove living oysters, both seed and marketable, from the purchased lease prior to its cancellation in accordance with §889.C, above. If the oysters are not reasonably removable within the time available, the leaseholder may request compensation for lost oysters as provided in §885.G.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1486 (July 2000).

§891. Payment

A. Inasmuch as sufficient funds may not be made available to pay in full all amounts determined by the secretary to be the actual costs, allowable and payable pursuant to these regulations, the secretary may make partial payments to leaseholders as option selections are processed, while maintaining a reserve fund until all timely made selections are processed, to the end that all leaseholders will receive the same ratable payment of the amounts authorized for payment with respect to each affected lease, to the extent reasonably practicable. No interest will be allowed or taken into account. All payments made or proposed to be made under these rules are conditional on the allowance by the secretary of the Army of such payments as a credit to the state of Louisiana toward its non-Federal share of the cost of the Project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1486 (July 2000).

§893. Release

A. In consideration for any benefits or payments received under any of the options set forth in these regulations, specifically §883, 885, 887 and/or 889, each leaseholder of an affected lease and/or any person and/or corporate person holding a property interest in an affected lease shall execute a receipt, release, indemnity and hold harmless agreement in favor of the United States of America, including the U.S. Army Corps of Engineers, the State of Louisiana, including the Louisiana Department of Natural Resources and the Louisiana Department of Wildlife and Fisheries, indicating that full and fair compensation has been made in complete satisfaction of all claims against the State and the United States of America, including the U.S. Army Corps of Engineers, related to past, present or future oyster damages in the affected lease, and related losses and expenses, including all claims in tort, pursuant to contract, or inverse condemnation theories and/or under any other applicable theory of recovery, including, but not limited to, 28 U.S.C. §1497. However, the hold harmless agreement for the retention option must also provide the right of the leaseholder under §887.B to elect an alternative option within one year from the initial selection of the retention option.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1487 (July 2000).

§895. Appeals

A. A determination of the level of reasonable and allowable compensation shall be reconsidered by the secretary upon the department's timely receipt of the leaseholder's written notice under §895.C.

B. The reconsideration by the secretary shall be limited to two bases:

1. the leaseholder has substantial technical information evidencing inaccuracies in the measurement of a leases' bottom substrate, or inaccuracies in the assessment of the commercial quantity of living (i.e., live seed and marketable) oysters on the affected lease in applicable cases; or

2. the leaseholder has evidence that the determination of reasonable and allowable compensation is manifestly in error.

C. The leaseholder's request for reconsideration under this subpart shall be made in writing to the secretary, within 30 days of the secretary's determination of reasonable and allowable costs, and shall include, at a minimum:

1. a description of the specific basis for the request for reconsideration; and

2. a written report that includes specific technical information substantiating any alleged inaccuracies in the bottom substrate measurement or in the assessment of the quantity of living oysters on the affected lease.

D. The secretary's decision shall be made to the leaseholder, in writing, within 45 days of the department's receipt of the request for reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 26:1487 (July 2000).

Katherine Vaughan
Deputy Secretary

0007#093

RULE

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

Requirements; Applications and Sketches of School Bus and Mass Transit Vehicles; Inspections; Installation of Liquefied Petroleum Gas Systems Used as Engine Fuel System for School Bus/Mass Transit Vehicles; Fueling
(LAC 55:IX.107, 201, 203, 205, 207)

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 Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, notice is hereby given that the commission amends its rules. The rule changes have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§107. Requirements

A.-5.b. ...

c. Each location of Class 1, Class 6 and Class 8 dealers, which fill DOT specification cylinders of 100 lbs. or less, liquefied petroleum gas capacity, that are in commerce or transportation, shall provide a suitable weighing device (scales). The commission shall tag, inspect and check for accuracy the weighing device (scales) annually. A weighing device (scales) that have not been tagged, inspected and checked for accuracy shall not be used to determine the quantity of liquefied petroleum gas in cylinders.

6-13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000).

**Chapter 2. School Bus and Mass Transit Installations
[formerly Chapter 12]**

Editor's Note: This chapter applies to liquefied petroleum gas systems supplying liquefied petroleum gas to propel school buses and mass transit vehicles.

§201. Applications/Sketches and Approval of School Bus and Mass Transit Vehicles; Final Inspections; Registrations; Renewal Registrations

A. Prior to the initial installation of a liquefied petroleum gas system used as a motor fuel system on any school bus or mass transit vehicle, either public or private, an application/sketch shall be submitted to a Liquefied Petroleum Gas Commission inspector for review and initial approval. The name of the dealer making the installation must be stated on the application/sketch.

1. Exceptions

a. When an original equipment manufacturer (OEM) made the installation of the liquefied petroleum gas system, the prior to initial installation review and initial approval requirement of Part A is waived; however an application/sketch, registration, and final inspection must be performed prior to placing into service.

b. When the installation of the liquefied petroleum gas system is made out-of-state, the prior to initial installation review and initial approval requirement of Part A is waived; however, the application/sketch, registration, and final inspection must be performed prior to placing into service.

B. After installation of the liquefied petroleum gas system but prior to placing into service, the vehicle(s) will be registered with the Liquefied Petroleum Gas Commission, by means of the application/sketch and evidenced by a registration decal affixed to the vehicle.

C. A renewal registration shall be made annually by the owner, between February 1 and April 30. Renewal registration forms will be mailed from the Liquefied Petroleum Gas Commission office to the previous year's registrants.

D. After installation of the liquefied petroleum gas system but prior to placing into service, a final inspection shall be made by a Liquefied Petroleum Gas Commission inspector.

E. A liquefied petroleum gas dealer or owner shall not fuel any school bus/mass transit vehicle with liquefied petroleum gas to which a current registration decal is not permanently affixed.

F. It shall be a violation of the commission rules and regulations for an owner to operate any school bus/mass transit vehicle which is propelled by liquefied petroleum gas, to which a current registration decal is not permanently affixed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:471 (March 1998), LR 26:1488 (July 2000).

§203. Inspections

A. A final inspection by a Liquefied Petroleum Gas Commission inspector is required on all newly installed liquefied petroleum gas systems.

B. The Liquefied Petroleum Gas Commission reserves the right to make an inspection of a liquefied petroleum gas system at any time.

C. All school bus/mass transit vehicles with renewal registrations shall be inspected between May 1 and July 31 by a Liquefied Petroleum Gas Commission inspector. It shall

be a violation of the Liquefied Petroleum Gas Commission rules and regulations to operate a school bus/mass transit vehicle without the required annual inspection.

D. A liquefied petroleum gas dealer shall not fuel any school bus/mass transit vehicle which has been condemned or placed out-of-service by the Liquefied Petroleum Gas Commission and notification published in an all dealer letter (A. D.).

E. No liquefied petroleum gas system shall be placed into service on any school bus/mass transit vehicle which does not comply with this Chapter and Chapter 8 of NFPA 58, that the commission has adopted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:471 (March 1998), amended LR 26:1488 (July 2000).

§205. Installation of Liquefied Petroleum Gas Systems Used as Engine Fuel Systems for School Bus/Mass Transit Vehicles

A. Installation of a liquefied petroleum gas system used as an engine fuel system for school bus/mass transit vehicles shall be in accordance with the applicable sections of NFPA 58, Chapter 8, that the commission has adopted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:471 (March 1998), amended LR 26:1488 (July 2000).

The effective date of these rule changes is August 1, 2000.

Charles M. Fuller
Director

0007#021

RULE

**Department of Social Services
Office of Rehabilitation Services
Commission for the Deaf**

State Sign Language Interpreter and Cued
Speech Transliterator Certification Standards
(LAC 67:VII.Chapter 13)

Editor's Note: §1303 contained information which was valid for one year. That time has expired and this outdated section has been deleted.

In accordance with the provisions of R.S. 49:950, et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS), Louisiana Commission for the Deaf has adopted revisions to the rules affecting the certification of sign language interpreters and cued speech transliterators.

The purpose of this Rule is to provide revisions to the rules governing the procedures/standards used in the evaluation and certification of sign language interpreters and cued speech transliterators and list the qualifications of individuals who are eligible for certification at various skill levels.

Title 67
SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 13. State Sign Language Interpreter and Cued Speech Transliterator Certification Standards

§1301. Certification Standards

A. Certification Statement. All individuals who use the title Sign Language Interpreter must be certified by and registered with the Louisiana Commission for the Deaf.

1. Recognition of situational specialties will require action of the appropriate subcommittees of the Interpreter Certification Board.

a. Qualifications for certification:

- i. be at least 18 years of age; and
- ii. possess a high school diploma/GED; and
- iii. submit completed application forms and required documentation; and
- iv. pass appropriate examination(s); and
- v. possess no felony or misdemeanor convictions

for offenses which directly relate to the duties and responsibilities of an interpreter/transliterator; and

- vi. abide by state laws, rules and regulations; and
- vii. abide by the Registry of Interpreters for the Deaf, Inc. (RID) Code of Ethics; and

b. in addition, applicants shall agree to:

i. sign a release of information form allowing LCD to gain examination results from examining agency(ies); and

ii. pay membership and related application fees to contracted examining agency(ies).

c. Application. An individual interested in certification must contact the Louisiana Commission for the Deaf (LCD).

B. Examinations. The State Interpreter/Transliterator Certification Program includes the following.

1. Screening. To begin the certification process, the candidate must successfully pass a screening instrument which will be determined by the ICB as approved by the LCD.

2. Written/Verbal/Performance Components. Upon successful completion of screening, the candidate will be eligible for the written examination(s), which will assess knowledge of the general field of deafness including deaf culture; the profession of interpreting/transliterating for persons who are deaf, deaf-blind or hard of hearing and application of the RID Code of Ethics.

a. Upon successful completion of the written examination(s), the candidate will be eligible for the verbal and/or performance examination(s).

b. The verbal examination(s) may include but not be limited to assessing knowledge of the general field of deafness including deaf culture, the profession of interpreting/transliterating and application of the RID Code of Ethics.

c. The performance examination will assess the candidate's ability to interpret and/or transliterate in the appropriate mode(s).

3. Examination Instrument. The Interpreter Certification Board will determine the examination(s) to be administered as approved by the Louisiana Commission for the Deaf.

4. Examination Dates. Administration of examination(s) will be scheduled by the Interpreter Certification Board.

5. Notification of Examination(s) Results. Individual candidates will be notified of results. Results of any part of the examination(s) will be maintained in confidential files, however, successful completion of the interpreting/transliterating certification program will be a matter of public record.

6. Re-Application. Persons who do not successfully pass any section(s) of the examination may apply for re-examination of said section(s) after a waiting period as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

7. No Shows. Failure to appear at an examination site at the appropriate time, for other than just cause as determined by ICB, will result in being placed at the bottom of the waiting list for the next available date.

C. Certificates

1. Certificate Criteria. The candidate:

a. must successfully complete the written examination(s); and

b. must successfully complete the verbal and/or performance examination(s);

c. must successfully complete a performance examination;

d. will be awarded various levels as outlined in the procedure manual of the Interpreter Certification Board.

2. Certificate Duration/Maintenance. Certificates shall be continuous as long as the individual interpreter meets certificate maintenance requirements as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual. Certificate maintenance requirements shall include but not be limited to professional growth and development, and field work.

a. Certificates shall be terminated when maintenance requirements are not met, but may be restored as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

3. Recognition. Recognition of interpreting/transliterating certificates shall be approved as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

4. Appeals. Individuals who disagree with the examination procedure and/or decisions of the Interpreter Certification Board have the right of appeal as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2351-2354 and 46:2361-2374.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, Louisiana Commission for the Deaf, LR 17:389 (April 1991), amended LR 18:968 (September 1992), LR 19:304 (March 1993), LR 19:905 (July 1993), LR 21:838 (August 1995), LR 26:1489 (July 2000).

§1303. Repealed

J. Renea Austin-Duffin
Secretary

0007#092

RULE

Department of the Treasury Board of Trustees of the State Employees' Retirement System

Retiree Election, Purchase of Military Service,
Disability Eligibility and Spousal Consent,
Excess Benefit Plan and Optional Retirement Plan
(LAC 58:I.503, 701, 2513, 2903,
3101-3115, and 3501-3519)

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951, et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") is amending LAC 58.I.503, 701, 2513, 2903, and enacting LAC 58.I.3101-3115 and 3501-3519. Chapter 31 is being redesignated as Chapter 35. The amendments change the election rules for retired member trustees, the purchase of military service, certification of continuing eligibility for disability, and instances where spousal consent is required. The enactments establish rules for the excess benefit arrangement and the optional retirement plan. The amendments and enactments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 58

RETIREMENT

Part 1. State Employees' Retirement

Chapter 5. Election of Retired Member Trustees

§503. Election Rules

A. A candidate for a position of retired member trustee on the board of trustees must be a retired member of the system (not including retired status under the Deferred Retirement Option Plan) by the date on which nominations close. The board of trustees shall accept the name and social security number of every candidate nominated by petition of 25 or more retired members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning retired members' signatures must be accompanied by their social security numbers. All nominations for the board of trustees election must be in the office of the Retirement System no later than the second Tuesday in July, close of business (4:30 p.m. Central Daylight Savings Time).

B.-K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:1490 (July 2000).

Chapter 7. Purchase of Military Service

§701. Purchase of Military Service

A. A maximum of four years of credit for military service may be purchased by active members who rendered military service in accordance with R.S. 29:411, 412, and 415.1, provided the active member received a discharge other than dishonorable. This provision shall not be applicable to DROP participants (R.S. 29:415.1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:153.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 26:1490 (July 2000).

Chapter 25. Procedures for Processing Disability Applications

§2513. Certification of Continuing Eligibility

A. LASERS may require a disability retiree to undergo a medical examination once each year during the first five years following the disability retirement, and once in every three-year period thereafter until the retiree has reached the equivalent age of regular retirement.

B. LASERS shall schedule the appointment with a state medical board or appointed alternate physician and notify the disability retiree of the appointment time and place in writing. LASERS must pay the cost of this examination. If the retiree fails to appear for this examination and the physician charges a cancellation fee, the retiree shall be responsible for this fee.

C.-D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 26:1490 (July 2000).

Chapter 29. Spousal Consent

§2903. Instances where Spousal Consent is Not Required

A. The following list sets out those instances where spousal consent is not necessary and will not be required:

1. the spouses are divorced, in which case LASERS needs a certified copy of a judgment of divorce;

2.-3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 26:1490 (July 2000).

Chapter 31. Excess Benefit Arrangement

§3101. Participation

A. All retired members and beneficiaries of the system whose retirement or survivor or beneficiary benefits from the system for a plan year have been limited by IRC Section 415 are participants in this plan. Participation in the plan is determined for each plan year. Participation in the plan will cease for any plan year in which the retirement benefit of a member of the system or a survivor or beneficiary is not limited by IRC Section 415.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1490 (July 2000).

§3103. Benefit

A. A participant in the plan shall receive a monthly benefit equal to the difference between the participant's monthly retirement benefit otherwise payable from the system prior to any reduction or limitation of IRC Section 415 and the actual monthly retirement benefit payable from the system as limited by IRC Section 415. The monthly benefit shall be subject to withholding for any applicable income or employment taxes. The form of the benefit paid to a participant from the plan shall be the same as otherwise selected by the participant and payable by the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1490 (July 2000).

§3105. Contributions

A. The system shall determine the required contribution to pay plan benefits for each plan year. The required contribution for each plan year shall be the total amount of benefits payable to all participants and their survivors or beneficiaries and such amount as determined by the system to pay the administrative expenses of the plan and the employer's share of any employment taxes on the benefits paid from the plan.

B. The required contributions as determined in the preceding subsection shall be paid into the plan fund from an allocation of the employer contributions paid to the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3107. Excess Plan Fund

A. Contributions to the plan shall be deposited on a monthly basis in a separate fund established and administered by the system. This fund is intended to be exempt from federal income tax under IRC Sections 115 and 415(m)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3109. Funding Assets

A. The benefit liabilities of the plan shall be funded on a month to month basis. The fund established hereunder shall not be accumulated to pay benefits payable in future months. Any assets of the fund not used for paying benefits for a current month shall be used, as determined by the system, for the payment of administrative expenses of the plan for future months or paid to the system as an additional employer contribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3111. Non-Assignability of Benefits

A. The benefits payable under the plan may not be assigned or alienated by a participant, except as otherwise permitted for benefits payable by the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3113. Plan Administration

A. The system shall have the authority to administer the plan as provided at R.S. 11:454.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3115. Retirement Benefit

A. Any and all payments made pursuant to this plan shall be considered part of a retirement benefit as provided for any member, survivor or beneficiary of the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

Chapter 35. Optional Retirement Plan

§3501. Plan Year

A. The Plan Year for the Optional Retirement Plan (ORP) shall be July 1 through June 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3503. Participation

A. Any unclassified state employee who is appointed by a statewide elected official and whose appointment is subject to confirmation by the Louisiana Senate and any unclassified state employee who is a member of the immediate staff of any such employee, and the chief executive officer of the State Group Benefits Program are eligible to participate in the ORP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3505. Election to Participate

A. An irrevocable election to participate in the ORP must be made in writing and filed with system within 60 days after the eligible employee begins work. Elections shall be effective as of the date of appointment. If an eligible employee fails to make an election to participate in the ORP within 60 days of appointment, he shall become a member of the defined benefit plan as of the date of appointment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3507. Employee Contributions

A. Each participant in the ORP shall contribute monthly the same amount that a regular member would have contributed under R.S. 11:62(5)(e). This amount shall be forwarded to the ORP provider, less an administrative cost that shall be established by LASERS. The initial administrative cost shall be set at one percent of employee earnings but may be adjusted annually in writing to reflect the actual cost incurred by LASERS to perform this function, but shall not exceed 1 percent without an amendment to this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§ 3509. Employer Contributions

A. Each employer agency shall contribute to LASERS on behalf of each participant in the ORP the same amount that would have been contributed to the defined benefit plan. LASERS shall pay over to the ORP provider an amount

equal to the employer's portion of the normal cost contributions as set forth in the actuarial valuation of the retirement system. LASERS shall maintain that portion of the employer's contribution, which applies to the unfunded accrued liability, which exceeds the employer's portion of the normal cost contribution. LASERS may also retain an additional portion of the employer contributions for any adverse actuarial impact as a result of employees participating in the ORP in accordance with R.S. 11:502.3 B.(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3511. ORP Provider

A. The system shall provide no more than three providers, selected by a competitive process, for participants to utilize in selecting investment options for the employee and employer contributions that are provided for by the preceding sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

§3513. Investment Options

A. The investment options available to participants shall be those as established by the ORP provider and selected by the ORP participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

§3515. Benefit Obligations

A. All benefits payable to participants under the ORP shall be the sole obligation of the ORP provider to which contributions are made, and shall not be the obligation of LASERS. Payments to participants or their beneficiaries shall be made by the ORP provider and not LASERS in accordance with the contracts approved for use in the ORP. Participants in the ORP shall not be entitled to any benefits under the defined benefit plan, and once a choice is made by a participant to participate in the ORP, that individual will be ineligible to participate in the defined benefit plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

§3517. Distribution

A. Distribution from the ORP to participants shall only be made after termination of employment with the state of Louisiana in accordance with applicable Internal Revenue Code provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

§3519. Sunset

A. Currently the law provides that the authority to enroll eligible employees in the ORP shall terminate on July 1, 2001. Those eligible employees who enroll or transfer prior

to that date shall continue participation in the ORP in accordance with the provisions of the ORP even if the plan actually sunsets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

Chapter 35. Repeal of Prior Rules

§3501. Repeal of Prior Rules

A. All rules and regulations adopted by LASERS prior to the effective date of this rule are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR. 26:1492 (July 2000).

Glenda Chambers
Executive Director

0007#002

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Alligator Regulations (LAC 76:V.701)

The Wildlife and Fisheries Commission does amend the regulations governing the Alligator Regulations (LAC 76:V.701).

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

1.-3.h ...

i. No person, firm, or corporation shall transport into this state or possess whole alligator(s) with skin on, alligator parts or alligator skins/hides unless that person, firm or corporation is a Louisiana licensed alligator parts dealer or fur dealer and is in immediate possession of an alligator parts dealer's license or fur dealer's license, except that a copy of such license shall be sufficient during transportation only. Persons, firms or corporations violating this Subparagraph shall be subject to the penalties as provided in Title 56:34, a Class Four violation; except that when such a violation involves alligator parts only, such offenses shall be subject to the penalties as provided in Title 56:32, a Class Two violation.

3.j.-3.o. ...

p. For the purpose of bonafide educational or promotional functions, including but not limited to school activities, civic groups, fairs and festivals within the state of Louisiana, an alligator farmer/rancher or his designee may transport his own live farm alligators or alligator eggs to such function without the need for a special permit from the Department while in possession of a valid nongame quadruped breeder's or exhibitor's license or copy thereof. Such farmer/rancher shall not barter, trade, exchange or attempt to barter, trade or exchange live alligator(s) or

alligator eggs while transporting to/or attending such function.

4.-5.h. ...

6. Alligator Hide Tag Procurement and Tagging Requirements

6.a. ...

b. Landowners, Land Managers and Hunters. upon application to the Department on forms provided for tag issuance. Applications for alligator tag allotments will be taken annually beginning July 15th and ending the day before the season opens. Tags will not be issued after close of business on the day prior to the season opening date.

6.b.i.-8.f. ...

9. Importation, Exportation, Purchase and Sale

a. Live alligators may be brought into the state only if the person, firm or corporation bringing the alligators into the state has obtained written permission from the Department. Violation of this Subparagraph is a class 4 violation as described in Title 56.

9.b.-11.e.ii.(a). ...

(b). Official shipping manifest including total length in inches (or feet and inches) referenced to CITES tag number of each skin in shipment. A fully executed (filled out) shipping manifest containing all information required in the buyer/dealer record may be substituted with department approval for the buyer/dealer record requirement on farm raised alligator skins.

11.e.ii.(c).-14.i. ...

j. The alligator egg collection permittee and the landowner are responsible for the return of the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. In no case shall the return rate be less than 14 percent at 48 inches total length. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36" and a maximum of 60" (credit will not be given for inches above 60") in size and the returned sex ratio should contain at least 50 percent females. The alligator egg collection permittee/landowner are responsible for and must compensate in kind for alligator mortality which occurs for Department-authorized return to the wild alligators while being processed, stored, or transported. The department shall be responsible for supervising the required return of these alligators. A department transfer authorization permit is not required for return to the wild alligators which are delivered to the farm of origin no more than 48 hours prior to being processed for wild release. Releases back to the wild will only occur between March 15 and August 25 of each calendar year provided that environmental conditions as determined by the Department are favorable for survival of the released alligators. Any farmer who owes 1000 or more alligators at 48" must release at least 1/4 of the total owed for that year by April 30; at least another quarter by June 15, at least another quarter by July 31; and the remainder by August 25. A farmer may do more than the required one-fourth of his releases earlier if available

unscheduled days allow. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department-sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Subparagraph is a Class Four violation as described in Title 56.

14.k.-17.c. ...

AUTHORITY NOTE: Promulgated in accordance with RS. 56:115, R.S. 56:259, R. S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000).

Thomas M. Gattle, Jr.
Chairman

0007#042

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Flotation Devices (LAC 76:XI.103)

The Wildlife and Fisheries Commission does hereby amend the regulations on Type IV Personal Flotation Devices (PFDs).

Title 76

WILDLIFE AND FISHERIES

Part XI. Boating

Chapter 1. Flotation Devices, Fire Extinguishers, Flame Arrestors and Ventilation

§103. Flotation Devices

A. ...

B. Regulations prescribed by the commission as to the type and number of personal flotation devices required on recreational boats while a watercraft is in use on the waters of this state are as follows.

1. Class A Watercraft (less than 16 feet in length). Shall carry at least one, type I, II, or III personal flotation device for each person on board. The P.F.D. must bear the U.S. Coast Guard approval number and must be of the appropriate sizes and serviceable.

B.2.-7.D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.24.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 11:705 (July 1985), amended LR 26:1493 (July 2000).

Thomas M. Gattle, Jr.
Chairman

0007#041

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

General and WMA Hunting (LAC 76:XIX.111)

The Wildlife and Fisheries Commission does hereby amend the rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Seasons

§111. General and Wildlife Management Area

Hunting Rules and Regulations

A. Hunting Seasons and Wildlife Management Area Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The secretary of the Department of Wildlife and Fisheries has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the Department of Wildlife and Fisheries a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire, muzzleloader rifle .36 caliber or smaller or shotgun during daylight hours during the open rabbit season. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is one per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic

hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Blackbirds and crows. All blackbirds, cowbirds, grackles and crows are considered crop depredators in Louisiana and may therefore be taken year round during legal shooting hours with no limit. Shooting hours are 30 minutes before sunrise to sunset.

4. Pheasant

a. Bag limit: 2 (males only). Possession limit: 4.

b. Pheasant season restricted to the following portion of Calcasieu and Cameron parishes: That portion west of Choupique Bayou south of U.S. 90 and La. 27, west of La. 27 to north boundary of Sabine NWR, north of Sabine NWR north boundary to Sabine River, east of Sabine River to Intracoastal waterway, south of Intracoastal waterway to Gum Cove, east of Gum Cove Road to La. 108, north and east of La. 108 from Gum Cove Road to U.S. 90, and south of U.S. 90 from Vinton to Choupique Bayou.

5. Falconry. Special permit required. Resident and migratory game species except turkeys may be taken. Seasons and bag limits are the same as for statewide and WMA regulations except squirrels may be taken by licensed falconers until the last day of February. Refer to LAC 76:V.301 for specific Falconry Rules.

6. Licensed Hunting Preserve. October 1-April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve Rules.

7. Deer Management Assistance Program (DMAP). Land enrolled in the voluntary program will be assessed a \$25 registration fee and \$0.05/acre fee. Deer management assistance tags must be in the possession of the hunter and attached and locked to antlerless deer (including those taken on either-sex days and those taken with bow and muzzleloader) through the hock in a manner that it cannot be removed before the deer is moved from the site of the kill. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in immediate cancellation of the program on those lands involved. Refer to LAC 76:V.111 for specific DMAP Rules.

8. Farm Raised White-tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

Exotics for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission (LWFC).

Supplemented Hunting Preserve for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is

authorized in writing by the LDAF and LDWF to permit hunting.

White-Tailed Deer for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

b. Seasons

i. Farm-Raised White-tailed Deer: consult the regulations pamphlet.

ii. Exotics: year round.

c. Methods of Take

i. White-tailed Deer. Same as outside.

ii. Exotics. Exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10-gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10-gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

d. Shooting Hours

i. White-tailed Deer. Same as outside.

ii. Exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit

i. Farm-Raised White-tailed Deer: Same as outside.

ii. Exotics: No limit.

f. Hunting Licenses

i. White-tailed Deer: Same as outside.

ii. Exotics: No person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. No person born on or after September 1, 1969 shall hunt with a firearm unless that person has first been issued a certificate of satisfactory completion of a firearm and hunter education course taught or approved by the Department of Wildlife and Fisheries. However, a person younger than 16 years of age may hunt without such certificate if he is accompanied by and is under the direct and immediate supervision of a person 18 years of age or older.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer or turkey. A separate wild turkey stamp is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of taking resident game birds and quadrupeds.

a. Use of a longbow (including compound bow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey and migratory game birds. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a muzzleloader rifle larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

b. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10-gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the department, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a regional office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to possess, sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the department. This permit shall be valid for 30 days from the date of issuance. Contact the local regional office for details.

7. Threatened and Endangered Species. Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Unregulated Quadrupeds. Holders of a legal hunting license may take coyotes, unmarked hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to "chase only" during still hunting segments of the firearm and archery only season for deer. Foxes and bobcats are protected quadrupeds and may be taken only by licensed trappers during the trapping

season. Remainder of the year "chase only" permitted by licensed hunters.

9. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

10. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer (including those taken with bow and muzzleloader and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. Sex Identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the State of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is en route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

E. General Deer Hunting Regulations

1. One antlered and one antlerless (when legal on private lands) deer per day except on Wildlife Management Areas, Federal Refuges and National Forest Lands where the daily limit shall be one deer per day. Six per season (all segments included) by all methods of take.

2. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically allowed.

3. Deer hunting restricted to legal bucks only, except where otherwise allowed.

4. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

5. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

6. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

7. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer

dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. Use of dogs to trail wounded deer is expressly prohibited in still hunting areas.

8. Areas not specifically designated as open are closed.

9. Muzzleloader Segment. (Special license and muzzleloader firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Muzzleloader license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either sex deer may be taken in all deer hunting areas except Area 5 and as specified on Public Areas. It is unlawful to carry a gun, including those powered by air or other means, while hunting during the special muzzleloader segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Muzzleloader Firearms For Special Season. Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and be fitted only with iron sights or non-magnifying scopes except persons 60 years of age or older may use magnified scopes. This includes those muzzleloaders known as "inline" muzzleloaders.

10. Archery Segment. Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Residents 60 years of age and older may use a crossbow without a special permit or license. Either sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, archer's must conform to the bucks only regulations. Either sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Pass-a-Loutre and Point-au-Chien WMAs (see schedule).

a. Bow and arrow regulations. Hunting arrows for deer must have well-sharpened metal broadhead blades not less than 7/8 inch in width. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only.

(b). to have in possession or use any poisoned or drugged arrow, arrows with explosive tips, or any bow drawn, held or released by mechanical means except that hand held releases are lawful.

(c). to hunt deer with a bow having a pull less than 30 pounds.

(d). to hunt with a bow or crossbow fitted with an infrared or laser sight.

11. Hunter Orange. Any person hunting deer shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" during the open deer gun season including muzzleloader season. Persons hunting on privately owned, legally posted land may wear a cap or a hat that is completely covered with hunter orange material in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange."

12. Special Handicapped Either-Sex Deer Season on Private Land. See regulations pamphlet for dates. Restricted to individuals with Physically Challenged Hunter Permit.

13. Special Youth Deer Hunt. See regulations pamphlet for dates.

F. Description of Areas

1. Area 1

a. All of the following parishes are open: Catahoula, East Feliciana, St. Helena, Concordia, Franklin, Tensas, East Baton Rouge, Madison, Washington.

b. Portions of the following parishes are also open.

i. Avoyelles-North of La. 1.

ii. Catahoula-All except that portion lying north and east of the Ouachita River to the Boeuf River. West of Boeuf River north to Caldwell parish line.

iii. Grant-East of U.S. 165 and south of La. 8.

iv. LaSalle-Portion south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to Caldwell Parish line.

v. Livingston-North of I-12.

vi. Rapides-East of U.S. 165 and north of Red River.

vii. St. Tammany-All except that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

viii. Tangipahoa-North of I-12.

ix. West Feliciana-All except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes.

i. Avoyelles-That portion surrounding Pomme de Terre WMA, bounded on the north, east, and south by La. 451 and on the west by the Big Bend Levee from its junction at the Bayou des Glaise structure east of Bordelonville, southward to its juncture with La. 451.

ii. Catahoula-South of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to La. 8 at Harrisonburg, west of La. 8 to La. 913, west of La. 913 and La. 15 to Deer Creek.

iii. East Feliciana and East Baton Rouge-East of Thompson Creek from the Mississippi line to La. 10. North of La. 10 from Thompson Creek to La. 67 at Clinton, west of La. 67 from Clinton to Mississippi line. South of Mississippi line from La. 67 to Thompson Creek. Also that portion of

East Baton Rouge Parish east of La. 67 from La. 64 north to Parish Line, south of Parish Line from La. 64 eastward to Amite River. West of Amite River southward to La. 64, north of La. 64 to La. 37 at Magnolia, east of La. 37 northward to La. 64 at Indian Mound, north of La. 64 from Indian Mound to La. 67. Also, that portion of East Feliciana Parish east of La. 67 from parish line north to La. 959, south of La. 959 east to La. 63, west of La. 63 to Amite River, west of Amite River, southward to parish line, north of parish line westward to La. 67.

iv. Franklin. All

v. St. Helena-North of La. 16 from Tickfaw River at Montpelier westward to La. 449, east and south of La. 449 from La. 16 at Pine Grove northward to La. 1045, south of La. 1045 from its junction with La. 449 eastward to the Tickfaw River, west of the Tickfaw River from La. 1045 southward to La. 16 at Montpelier.

vi. Tangipahoa-That portion of Tangipahoa Parish north of La. 10 from the Tchefuncte River to La. 1061 at Wilmer, east of La. 1061 to La. 440 at Bolivar, south of La. 440 to the Tchefuncte River, west of the Tchefuncte River from La. 440 southward to La. 10.

vii. Washington and St. Tammany-East of La. 21 from the Mississippi line southward to the Bogue Chitto River, north of the Bogue Chitto River from La. 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi line, south of the Mississippi line from the Pearl River westward to La. 21. Washington and St. Tammany...Also, that portion of Washington Parish west of La. 25 from the Mississippi State Line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany parish line, north of the St. Tammany parish line to the Tangipahoa parish line, east of the Tangipahoa parish line to the Mississippi state line, south of the Mississippi state line to its junction with La. 25.

viii. West Feliciana-West of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of U.S. 61 and La. 966, east of La. 966 from U.S. 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open.

i. Bienville, Jackson, Union, Bossier, Lincoln, Webster, Caddo, Caldwell, Natchitoches, Winn, Claiborne, Red River, DeSoto, Sabine.

ii. Except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open.

i. Allen-North of U.S. 190 east of Reeves and east of La. 113.

ii. Avoyelles-That portion west of I-49.

iii. Beauregard-East of La. 113. Also, west of La. 27 north to DeRidder and south and east of U.S. 190 west of DeRidder to Texas line.

iv. Calcasieu-West of La. 27 north of Sulphur and north of U.S. 90 from Sulphur to Texas line.

v. Catahoula-That portion lying north and east of the Ouachita River to the Boeuf River. West of Boeuf River north to Caldwell Parish line.

vi. Evangeline-All except the following portions: east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte, and north of U.S. 167 east of Ville Platte.

vii. Grant-All except that portion south of La. 8 and east of U.S. 165.

viii. Jefferson Davis-North of U.S. 190.

ix. LaSalle-All except south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to Caldwell Parish line.

x. Morehouse-West of U.S. 165 (from Arkansas line) to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, west of La. 139 to junction of La. 593, west and south of La. 593 to Collinston, west of La. 138 to junction of La. 134 and north of La. 134 to Ouachita line at Wham Brake.

xi. Ouachita-All except south of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Brake.

xii. Rapides-All except north of Red River and east of U.S. 165. South of La. 465 to junction of La. 121, west of La. 121 and La. 113 to Union Hill, and north of La. 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and U.S. 167 to junction of U.S. 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.

xiii. Vernon-East and south of La. 113, north and east of La. 465, west of La. 117 from Kurthwood to Leesville, and north of La. 8 from Leesville to Texas line.

c. Still hunting only in all or portions of the following parishes.

i. Claiborne and Webster-Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).

ii. Ouachita-East of Ouachita River.

iii. Rapides-West of U.S. 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to U.S. 165, east of U.S. 165 northward to U.S. 167 at Alexandria. North of La. 465 from Vernon Parish line to La. 121, west of La. 121 to I-49, west of I-49 to La. 8, south and east of La. 8 to La. 118 (Mora Road), south and west of La. 118 to Natchitoches Parish line.

iv. Vernon-East of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to La. 465, east and north of La. 465 to Rapides Parish line.

3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open.

i. Allen-South of U.S. 190 and west of La. 113.

ii. Beauregard-West of La. 113. Also east of La. 27 north to DeRidder and north and west of U.S. 190 west of DeRidder to Texas line.

iii. Calcasieu-East of La. 27 north of Sulphur and south of U.S. 90 from Sulphur to Texas line.

iv. Iberia-West of U.S. 90 and north of La. 14.

v. Jefferson Davis-All except north of U.S. 190.

vi. Lafayette-West of I-49 and U.S. 90.

vii. Rapides-South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill and north of La. 113 from Union Hill to Vernon Parish line.

viii. St. Landry-West of U.S. 167.

ix. Vernon-West and north of La. 113, south of La. 465, east of La. 117 from Kurthwood to Leesville, and south of La. 8 from Leesville to Texas line.

4. Area 4

a. All of East Carroll and Richland parishes are open.

b. Portions of the following parishes are open.

i. Morehouse-East of U.S. 165 (from Arkansas line) to Bonita, south and east of La. 140 to junction of La. 830-4 (Cooper Lake Road), east of La. 830-4 to Bastrop, east of La. 139 at Bastrop to junction of La. 593, east and north of La. 593 to Collinston, east of La. 138 to junction of La. 134 and south of La. 134 to Ouachita line at Wham Brake.

ii. Ouachita-South of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Brake.

5. Area 5

a. All of West Carroll Parish is open.

i. All deer hunting is for bucks only including muzzleloader season.

6. Area 6

a. All of Orleans Parish is closed to all forms of deer hunting.

b. All of the following parishes are open: Ascension, Plaquemines, St. John, Assumption, Pointe Coupee, St. Martin, Iberville, St. Bernard, Jefferson, St. Charles, Lafourche, St. James, West Baton Rouge.

c. Portions of the following parishes are also open.

i. Avoyelles-South of La. 1 and also that portion east of I-49.

ii. Evangeline-That portion east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte and north of U.S. 167 east of Ville Platte.

iii. Iberia-East of U.S. 90.

iv. Lafayette-East of I-49 and U.S. 90.

v. Livingston-South of I-12.

vi. Rapides-South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

vii. St. Landry-East of U.S. 167.

viii. St. Mary-North of U.S. 90.

ix. St. Tammany-That portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

x. Tangipahoa-South of I-12.

xi. West Feliciana-West of Mississippi River, known as Raccourci and Turnbull Islands.

d. Still hunting only in all of the following parishes.

i. Plaquemines-East of the Mississippi River.

ii. Rapides-South of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

iii. St. Bernard-All of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.

iv. St. John-South of Pass Manchac from Lake Pontchartrain to U.S. 51, east of U.S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U.S. 51 to Lake Pontchartrain. West of Lake Pontchartrain from La. 638 to Pass Manchac.

v. St. Landry-Those lands surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10, and south by La. 103.

7. Area 7

a. The following parish is open: Terrebonne.

b. Portions of the following parishes are open. Iberia and St. Mary Parishes-South of La. 14 and west U.S. Hwy. 90.

G Wildlife Management Area Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering upon a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. Wildlife management area seasons may be altered or closed anytime by the Department Secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 3:00 a.m. unless otherwise specified. On days when Daily permits are required, permit stations will open 2 hours before legal shooting hours. Hunters must exit the WMA no later than two hours after sunset unless otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF regional office for additional information.

f. Dumping garbage or trash on WMAs except in designated locations is prohibited.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Commercial activities prohibited without prior approval or unless otherwise specified.

i. Damage to or removal of trees, shrubs, hard mast (acorn, pecans, etc.) and wild plants is prohibited without

prior approval. Gathering and/or removal of soft fruits and berries shall be limited to five gallons per person per day. Persons engaged in commercial activities must obtain a permit from the Region Office.

j. Burning of marshes is prohibited except by permit. Permits may be obtained from the Fur and Refuge Division.

k. Nature trails. Access to trails shall be limited to pedestrians only. No vehicles, ATV's, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

l. Deer seasons are for legal buck deer unless otherwise specified.

m. Small game, when listed under the WMA regulations, includes both resident game animals and game birds as well as migratory species of birds.

n. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and State Seed Grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

2. Permits

a. Daily. Daily permits when required shall be obtained at permit stations on or near each WMA. Hunters must retain permit in possession while hunting. Hunters may enter the area no earlier than two hours before legal shooting time unless otherwise specified. Hunters must checkout daily and exit the area not later than two hours after sunset unless otherwise specified.

b. Self Clearing Permits. On WMAs where Self Clearing Permits are required, all hunters must obtain a WMA Self Clearing Permit from an Information Station. The check in portion must be completed and put in a permit box before each day's hunt on the day of the hunt. The check out portion must be carried by each hunter while hunting and must be completed and put in a permit box after each day's hunt on the day of the hunt unless otherwise specified. A vehicle tag will also be associated with the Self Clearing Permit and must be displayed in the vehicle while on the WMA.

c. Wild Louisiana Stamp. Persons using WMAs or other department administered lands for purposes other than hunting and fishing, such as camping, shooting on rifle ranges, berry picking, hiking, photography, bird-watching and the like, shall be required to possess one of the following: a Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement.

3. Special Seasons

a. Youth deer hunt. Only youths younger than 16 years of age may hunt. All other seasons are closed except Handicapped Seasons. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Contact the appropriate region office for special check station locations when daily

permits are required and maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

b. **Handicapped Season.** For hunters possessing a Physically Challenged Hunter Permit only. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Handicapped Seasons. Pointe-au-Chien will have an experimental Lottery Handicapped waterfowl hunt. Contact New Orleans Fur and Refuge Division for details.

c. **Deer Lottery Hunts.** Hunts restricted to those persons selected as a result of the pre-application lottery. Consult the regulations pamphlet for deadlines. A non-refundable application fee must be sent with application. Contact region offices for applications. Consult regulations pamphlet for WMAs offering lottery hunts.

d. **Turkey Lottery Hunts.** Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at Self Clearing station. Contact Region Offices for more details. Consult separate Turkey Hunting Regulations pamphlet for WMAs offering lottery hunts.

e. **Trapping.** Permits to take fur bearers from WMAs may be obtained at appropriate offices when required. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. On WMAs where permits are required, each trapper must submit an annual trapping report to the Region Office where his permit was obtained. Non-compliance will result in forfeiture of trapping privileges on the WMAs. Permits may be obtained only between hours of 8 a.m. to 4:30 p.m. on normal working days at region offices. Hunter orange required when a deer gun season is in progress. A permit is required to carry a firearm outside of the normal hunting season and is available at the Region Office.

f. **Raccoon Hunting.** A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAS. Nighttime experimental-Season dates for specific WMAS are for nighttime raccoon hunting and permits may be required. There will be no bag limit for raccoons at night unless specified in the annual regulations pamphlet. Raccoon hunters with dogs must submit an annual report of their kill to the region office for WMAs where permits are required. Non-compliance will result in forfeiture of raccoon or all hunting privileges on WMAs. Permits, when required, may be obtained at region offices only between hours of 8 a.m. to 4:30 p.m. on normal working days.

g. **Commercial fishing.** Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines permitted on Dewey Wills WMA north of La. 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-Au-Chien WMAs except shrimping allowed on Pointe-Au-Chien in Cut Off Canal and Wonder Lake during daytime only. Non-compliance with permit regulations will

result in revocation of commercial fishing privileges for the period the license is issued and one year there after. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

h. **Sport Fishing.** Sport fishing, crawfishing and frogging are permitted on WMAs when in compliance with current laws and regulations except nighttime frogging prohibited on Salvador/ Timken and Pointe-Au-Chien.

i. **Additional Department Lands.** The department manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Rapides, Vernon, Evangeline and St. Helena parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate Wildlife and Fisheries Region Office for specific information and any additional season dates.

4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in or on vehicles, boats under power, motorcycles, ATV's, ATC's or in camping areas on WMAS. Firearms may not be carried on any area before or after allowed hours except in authorized camping areas.

b. Firearms and bows and arrows are not allowed on WMAs during closed hunting seasons except on designated shooting ranges or as allowed for trapping. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or except as allowed for bowfishing.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under Wildlife Management Area listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns, arms larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season.

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails or their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On Wildlife Management Areas, Federal Refuges and National Forest Lands where the daily limit shall be one deer per day, six per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included). Unmarked hogs may be taken on some WMAs by properly licensed hunters and only with guns or bow and arrow legal for specified seasons in progress. Consult the specific WMA for additional

information. Proper licenses and permits are required for hunting.

d. Hunters who kill deer on WMAs that require daily permits must have deer checked at the check station on same day of kill.

e. Deer hunting on WMAs is restricted to still hunting only. No WMA will be open for deer during early still hunt season unless specified in the regulation pamphlet.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed.

g. On Wildlife Management Areas and Refuges, all deer stands must be removed from the area no later than two hours after the end of legal shooting hours each day. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

h. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting hours each day. Blinds with frames of wood, plastic, metal, poles, wire, mesh, webbing or any materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation may be left in place but cannot be used to reserve hunting locations. All decoys must be removed from the WMA daily.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are also prohibited.

k. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the Department. This action is necessary to prevent preemption of hunting space.

l. Hunters shall not hunt, take or pursue birds or animals from moving vehicles on any WMA. No person shall take birds or animals from or by any motor boat or sail boat unless the motor has been completely shut off and/or the sail furled and its progress therefrom has ceased.

m. Spot lighting (shining) from vehicles is prohibited on all WMAS.

n. Horses and mules may be ridden on Wildlife Management's Areas except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified.

o. All hunters except waterfowl hunters and dove hunters (including archers and small game hunters) on WMAs must display 400 square inches of "Hunter Orange" and wear a "Hunter Orange" cap during open gun season for deer. Quail and woodcock hunters as well as hunters participating during special dog seasons for rabbit and squirrel are required to wear a minimum of a "Hunter Orange" cap. ALSO all non-hunters afield during hunting seasons are encouraged to display "Hunter Orange."

p. Archery season for deer. The archery season on WMAs is the same as outside and is open to either sex deer except as otherwise specified on individual WMAS. Archery season restricted or closed on certain WMAs when special

seasons for youth or handicapped hunters are in progress. Consult regulations pamphlet for specific seasons.

q. Either sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Muzzleloader season for deer. See WMA deer schedule.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to Department-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring period is limited to a period not to exceed 16 consecutive days. Permits are required for camping and overnight mooring of houseboats on Pass-a-Loutre and can be obtained from the WMA headquarters. Houseboat mooring permits are required for Atchafalaya Delta Wildlife Management Area. Permits may be obtained from headquarters on respective WMAs or from the New Iberia office for Atchafalaya Delta WMA.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by state and federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming prohibited within 100 yards of boat launching ramps.

7. Restricted Areas

a. All oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or hunting in restricted areas or refuges.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting and bird dog training when allowed, having or using dogs on any WMA is prohibited. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be held liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

9. Vehicles

a. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

b. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within wildlife management areas due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

c. Tractor implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles. ATV tires are restricted to those with maximum allowable tire pressure of 5 psi, as indicated on the tire by the manufacturer.

d. Airboats, aircraft, personal water craft and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexandria State Forest WMA.

e. No internal combustion engines allowed in certain Greentree reservoir.

f. Driving or parking vehicles on food or cover plots and strips is prohibited.

g. Blocking the entrance to roads and trails is prohibited.

h. Motorized vehicles, including ATVs, ATCs and motorcycles, are restricted entirely to designated roads and ATV trails as indicated on WMA maps, except on Atchafalaya Delta WMA where ATVs, ATCs and motorcycles are prohibited. WMA maps available at all region offices. This restriction does not apply to bicycles.

i. Use of special ATV trails for handicapped persons restricted to special ATV handicapped permittees. Handicapped ATV permittees restricted to handicapped ATV trails or other ATV trails only as indicated on WMA maps. Persons 60 years of age and older, with proof of age, are also allowed to use special handicapped trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Handicapped persons should make

application for a Physically Challenged Hunter Program Permit with the Department.

j. Entrances to ATV trails will be marked with peach colored paint. Entrances to handicapped-only ATV trails will be marked with blue colored paint. Routes of all trails are as indicated on WMA maps. Deviation from the trails indicated on the map constitutes a violation of WMA rules and regulations.

k. Roads and trails may be closed due to poor condition or construction.

l. ATVs, ATCs and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 3:00 AM. All roads including trails and roads designated as ATV trails shall be closed from March 1 through August 31 unless otherwise specified. Certain trails may be open during this time period to provide access for fishing or other purposes. These trails will be marked by signs at the entrance of the trail.

m. Caution: Many department-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

10. Wildlife Management Areas Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

11. Resident Small Game (squirrel, rabbit, quail, dove, woodcock, snipe, rail and gallinule). Consult regulations pamphlet.

12. Waterfowl (ducks, geese and coots). Consult regulations pamphlet.

13. Archery. Consult regulations pamphlet.

14. Hogs. Consult regulations pamphlet.

15. Outlaw Quadrupeds and Birds. Consult regulations pamphlet.

16. Wildlife Management Areas Hunting Schedule and Regulations.

a. Alexander State Forest. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas.

b. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the Department of Wildlife and Fisheries at any time. ATVs, ATCs and motorcycles prohibited.

c. Attakapas. Free-ranging livestock prohibited.

d. Bayou Macon. All night activities prohibited except as otherwise provided. Mules are allowed for nighttime raccoon hunting.

e. Bayou Pierre. No ATVs or ATCs allowed on the area. Motorized vehicles are allowed only on parish roads and roads marked on WMA map.

f. Bens Creek. All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. No hunting in restricted areas. (See WMA Map). Horses and mules are specifically prohibited during gun seasons for deer and during the spring turkey season.

g. Big Colewa Bayou. ATVs restricted to designated trails. Refer to WMA map for location of designated trails. All other motorized vehicles prohibited. All nighttime activities prohibited.

- h. Big Lake. Free-ranging livestock prohibited.
- i. Biloxi
- j. Bodcau
- k. Boeuf. Free-ranging livestock prohibited.
- l. Boise-Vernon. Road travel and hunting restrictions: All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. Hunting prohibited on roads designated for motorized vehicle travel.
- m. Buckhorn. Free-ranging livestock prohibited.
- n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self Clearing Permit required once per year. Free-ranging livestock prohibited. All game harvested must be reported. Retriever training allowed on selected portions of the WMA. Contact the region office for specific details.
- o. Dewey W. Wills. Crawfish: 100 pounds per person per day. Roads may be closed during wet weather conditions.
- p. Elm Hall. No ATVs allowed.
- q. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self Clearing Permit required once per year. Special regulations apply to ATV users.
- r. Georgia-Pacific. Except as otherwise provided, all nighttime activities prohibited.
- s. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. Free-ranging livestock prohibited. No hunting in restricted area.
- t. Jackson-Bienville. ATVs are allowed on non-public maintained gravel roads and timber management roads and trails. However, all ATVs/ATCs prohibited March 1 through September 15.
- u. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.
- v. Lake Boeuf
- w. Lake Ramsay. Foot traffic only-all vehicles restricted to Parish Roads.
- x. Little River. Roads may be closed during wet conditions.
- y. Loggy Bayou
- z. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.
- aa. Ouachita. Waterfowl Refuge: North of La. Hwy. 15 closed to all hunting, fishing and trapping during waterfowl season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided.
- ab. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described

on the Department Pass-a-Loutre WMA map. ATVS, ATCs and motorcycles prohibited on this area.

ac. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting will be closed when the river stage at Pearl River reaches 16.5 feet except waterfowl hunting south of Hwy. 90. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open noon until 4 p.m. Friday, and 8 a.m. to 4:30 p.m. Saturday and Sunday with a fee.

ad. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self Clearing Permit required once per year. Special federal regulations apply to ATV users.

ae. Pointe-au-Chien. Hunting until 12 noon on all game, except for dove hunting as specified in regulation pamphlet. Point Farm: Gate will be open during opening weekend of the second split of dove season and all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Fish may be taken by rod and reel or hand lines for recreational purposes only. Crabs may be taken through the use of hand lines or nets; however, none are to remain set overnight. 12 dozen crabs are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Mudboats or vessels with engines larger than 25 h.p. prohibited in the Montegut and Grand Bayou marsh management units. Public is allowed to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue. Vehicles prohibited on Point Farm properties unless authorized by the department. ATVS, ATCs and motorcycles prohibited on this area.

af. Pomme de Terre. Commercial Fishing: allowed Monday through Friday, except closed during duck season. Commercial Fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside except allowed after 2 p.m. only during waterfowl season. Crawfish: April 1-July 31, 100 lbs. per person per day limit. No traps or nets left overnight. Free-ranging livestock prohibited.

ag. Red River. Free-ranging livestock prohibited. Crawfishing prohibited on Wetland Restoration Areas.

ah. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided.

Note: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. Waterfowl hunting after 2 p.m. prohibited. All vehicles including ATVs prohibited.

ai. Sabine

aj. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

ak. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Fish may be taken by rod and reel or hand lines for recreational purposes only. Crabs may be taken through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 H.P. are allowed only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes-"Baie Des Chactas" and "Baie du Cabanage" and the Rathborne Access ditch. Operation of the above described internal combustion engines in interior ditches is prohibited except by experimental permit to be obtained from the New Orleans Office, Fur and Refuge Division, Room 217. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. Special Use Permits may be issued for persons interested in clearing existing ditches (trenasses). Permits will be considered on a case-by-case basis. Contact New Orleans Region Office-Fur and Refuge Division. ATVS, ATCs and motorcycles prohibited on this area.

al. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Organized trail rides prohibited. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. No motorized vehicles allowed off designated roads. Free-ranging livestock prohibited.

am. Sherburne. Crawfishing: Recreational crawfishing only on the North and South Farm Complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. NO traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing allowed on the remainder of the area. Permit is required. Free-ranging livestock prohibited. Retriever training allowed on selected portions of the WMA. Contact the Region Office for specific details. Vehicular traffic prohibited on east Atchafalaya River Basin levee road within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact

Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne Wildlife Management Area will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area. No commercial activity on ANWR, except trapping.

an. Sicily Island Hills. Firearms and any game harvested cannot be transported through the area except during the corresponding open season on area. Free-ranging livestock prohibited.

ao. Soda Lake. Entire area is walk-in only-no motorized vehicles allowed. Access into the area is allowed only from south end of the area off of Hwy. 173 at Twelve Mile Bayou. All trapping and hunting prohibited except archery hunting for deer.

ap. Spring Bayou. Commercial Fishing: allowed Monday through Friday except slat traps and hoop nets allowed any day. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: 100 lbs. per person per day limit. Permit required from area supervisor. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this camp site. Water skiing allowed only in Old River and Grand Lac.

aq. Thistlethwaite. No hunting or trapping in restricted area (See WMA Map). All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas.

ar. Three Rivers. Free-ranging livestock prohibited in area.

as. Tunica Hills. All vehicles restricted to Parish roads. ATV's restricted to designated trails. Driving on food plots prohibited. Access to restricted areas is unauthorized. Refer to WMA map. Camping prohibited on area. North of Highway 66 (Angola Tract) closed to the general public March 1-September 30 except spring turkey hunting access allowed for those individuals drawn for special lottery hunt.

at. Union. All nighttime activities prohibited except as otherwise provided.

au. West Bay. Road Travel and Hunting Restrictions: All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. Hunting prohibited on roads designated for motorized vehicular travel.

av. Wisner

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000).

Thomas M. Gattle, Jr.
Chairman

0007#084

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Jewfish and Nassau Grouper Taking and Possession Prohibited (LAC 76:VII.337)

The Wildlife and Fisheries Commission does hereby amend a Rule, LAC 76:VII.337, prohibiting the take and possession of Nassau grouper (*Epinephelus striatus*). Authority for adoption of this Rule is included in R.S. 56:325.1 and R.S. 56:326.3

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§337. Taking and Possession of Jewfish and Nassau Grouper Prohibited

A. The Wildlife and Fisheries Commission hereby prohibits the taking and possession of jewfish (*Epinephelus itajara*) and Nassau grouper (*Epinephelus striatus*) from within or without Louisiana waters.

B. No person shall take, transport or possess within the territorial jurisdiction of the state of Louisiana jewfish (*Epinephelus itajara*) and Nassau grouper (*Epinephelus striatus*).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:325.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 19:1442 (November 1993), LR 26:1505 (July 2000).

Thomas M. Gattle, Jr.
Chairman

0007#039

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

King and Spanish Mackerel and Cobia Size Limits (LAC 76:VII.323)

The Wildlife and Fisheries Commission does hereby amend a Rule, LAC 76:VII.323, changing the minimum size limit and measurement requirements for the harvest of cobia, Spanish mackerel, and king mackerel. Authority for adoption of this Rule is included in R.S. 56:326.1 and R.S. 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§323. Size Limits of King and Spanish Mackerel and Cobia

A. The Wildlife and Fisheries Commission does hereby adopt the following rules and regulations establishing size limits.

1. The minimum legal size for possession of Spanish mackerel (*Scomberomorus maculatus*) shall be 12 inches fork length and king mackerel (*Scomberomorus cavalla*)

shall be 24 inches fork length whether caught within or without the territorial waters of Louisiana. No person shall possess, sell, barter, trade or exchange or attempt to sell, barter, trade or exchange Spanish mackerel or king mackerel less than the minimum size requirements.

2. The minimum legal size for possession of cobia (*Rachycentron canadum*) whether caught within or without the territorial waters of Louisiana shall be 33 inches fork length. No person shall possess, sell, barter, trade or exchange or attempt to sell, barter, trade or exchange cobia less than the minimum size requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 13:502 (September 1987), amended LR 17:207 (February 1991), LR 26:1505 (July 2000).

Thomas M. Gattle, Jr.
Chairman

0007#040

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Reef Fish Daily Take, Possession and Size Limits (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.335, changing the minimum size limits and recreational bag limits for the harvest of reef fish and adding, deleting, or reorganizing list. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:326.1, and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§335. Reef Fish-Daily Take, Possession and Size Limits Set by Commission

A. The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations regarding the harvest of triggerfishes (excluding queen triggerfish), amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies within and without Louisiana's territorial waters:

<u>Species</u>	<u>Recreational Bag Limits</u>
1. Red Snapper	Four fish per person per day
2. Queen, mutton, schoolmaster, blackfin, cubera, gray, dog, mahogany, silk, yellowtail snappers, and wenchman	10 fish per person per day (in aggregate)
3. Vermilion snapper, lane snapper, gray triggerfish, almaco jack, goldface tilefish, tilefish, blackline tilefish, anchor tilefish, blueline tilefish	20 per person per day (in aggregate)
4. All groupers	Five fish per person per day (in aggregate) excluding jewfish and Nassau grouper and with not more than one speckled hind and one warsaw grouper per vessel
5. Greater amberjack	One fish per person per day
6. Banded rudderfish and	Five fish per person per day

lesser amberjack (in aggregate)
 7. Hogfish 5 fish per person per day

* * *

H. Species	<u>Minimum Size Limits</u>
1. Red Snapper	16 inches total length (Recreational) 15 inches total length (Commercial)
2. Gray, yellowtail, cubera, dog, mahogany snapper, and schoolmaster	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red, gag, black and yellowfin grouper	20 inches total length
7. Scamp	16 inches total length
8. Greater amberjack	28 inches fork length (Recreational) 36 inches fork length (Commercial)
9. Black seabass	8 inches total length
10. Hogfish	12 inches fork length
11. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size); 22 inches fork length (maximum size)
12. Gray triggerfish	12 inches total length

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:000 (March 2000), LR 26:1505 (July 2000).

Thomas M. Gattle, Jr.
 Chairman

0007#085

RULE

**Department of Wildlife and Fisheries
 Wildlife and Fisheries Commission**

**Resident Game Hunting Season C2000-2001
 (LAC 76:XIX.101 and 103)**

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§101. General

The Resident Game Hunting Season, 2000-2001 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871

(July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000).

§103. Resident Game Birds and Animals 2000-2001

A. Shooting hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	Nov. 18-Feb. 28	10	20
Rabbit	Oct. 7-Feb. 28	8	16
Squirrel	Oct. 7-Feb. 11	8	16
Pheasant	Nov. 18-Jan. 31	2 (Cock Only)	4
Deer	See Schedule	1 antlered and 1 antlerless (when legal on private lands)	6/season

C. Deer Hunting Schedule

Area	Archery	Muzzleloader (All Either Sex)	Still Hunt	With or Without Dogs
1	Oct. 1-Jan. 31	Nov. 11-Nov. 17 Jan. 22-Jan. 28	Nov. 18-Dec. 3 Jan. 8-Jan. 21	Dec. 9-Jan. 7
2	Oct. 1-Jan. 31	Oct. 28-Nov. 3 Jan. 13-Jan. 19	Nov. 4-Dec. 8	Dec. 9-Jan. 12
3	Sept. 16-Jan. 16	Oct. 7-Oct. 13 Dec. 11-Dec. 15	Oct. 14-Dec. 10 Dec. 16-Jan. 1	
4	Oct. 1-Jan. 31	Nov. 11-Nov. 17 Jan. 13-19	Nov. 18-Jan. 12	
5	Oct. 1-Jan. 31	Nov. 11-Nov. 17 Jan. 13-19 Bucks Only	Nov. 18-26	
6	Oct. 1-Jan. 31	Nov. 11-Nov. 17 Jan. 22-Jan. 28	Nov. 18-Dec. 3	Dec. 9-Jan. 21
7	Oct. 1-Jan. 31	Oct. 7-Oct. 13 Jan. 15-Jan. 21	Oct. 14-Oct. 29 Nov. 18-Dec. 3	Dec. 9-Jan. 14

D. Modern Firearm Schedule (Either Sex Seasons)

Parish	Modern Firearm Either-Sex Days
Acadia	Oct. 14-15, 21-22, 28-29, Nov. 4-5, 18-19, 24-26
Allen	Area 2: Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10 Area 3: Oct. 14-15, 21-22, 28-29, Nov. 4-5, 18-19, 24-26
Ascension	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Assumption	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Avoyelles	Area 1: Nov. 18-19, 24-26, Dec. 9-10 Area 2: Nov. 4-5, 24-26, Dec. 9-10 Area 6: Nov. 18-19, 24-26, Dec. 9-10
Beauregard	Area 2: Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10 Area 3: Oct. 14-15, 21-22, 28-29, Nov. 4-5, 18-19, 24-26
Bienville	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
Bossier	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
Caddo	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
Calcasieu	Area 2: Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10 Area 3: Oct. 14-15, 21-22, 28-29, Nov. 4-5, 18-19, 24-26
Caldwell	Nov. 4-5, 24-26, Dec. 2-3
Cameron	Oct. 14-15, 21-22, 28-29, Nov. 4-5, 18-19, 24-26

Catahoula	Area 1: Nov. 18-19, 24-26, Dec. 9-10
	Area 2: Nov. 4-5, 24-26, Dec. 2-3
Claiborne	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 2-3
Concordia	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
DeSoto	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
East Baton Rouge	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
East Carroll	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17 East of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison parish line.
	Nov. 18-19, 24-26, the remainder of the parish.
East Feliciana	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Evangeline	Area 2: Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
	Area 6: Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Franklin	Nov. 18-19, 24-26
Grant	Area 1: Nov. 18-19, 24-26, Dec. 2-3, 9-10
	Area 2: Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
Iberia	Area 3: Oct. 14-15, 21-22, 28-29, Nov. 4-5, 18-19, 24-26
	Area 6: Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
	Area 7: Oct. 14-15, Nov. 18-19, 24-26, Dec. 9-10
Iberville	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Jackson	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
Jefferson	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Jefferson Davis	Area 2: Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
	Area 3: Oct. 14-15, 21-22, 28-29, Nov. 4-5, 18-19, 24-26
Lafayette	Area 3: Oct. 14-15, 21-22, 28-29, Nov. 4-5, 18-19, 24-26
	Area 6: Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Lafourche	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
LaSalle	Area 1: Nov. 18-19, 24-26, Dec. 9-10
	Area 2: Nov. 4-5, 24-26, Dec. 9-10
Lincoln	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
Livingston	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Madison	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Morehouse	Area 2: Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
	Area 4: Nov. 18-19, 24-26
Natchitoches	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
Orleans	Closed to all deer hunting
Ouachita	Area 2: Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
	Area 4: Nov. 18-19, 24-26
Plaquemines	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Pointe Coupee	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Rapides	Area 1: Nov. 18-19, 24-26, Dec. 2-3, 9-10
	Area 2: Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
	Area 3: Oct. 14-15, 21-22, 28-29, Nov. 4-5, 18-19, 24-26
	Area 6: Nov. 18-19, 24-26, Dec. 2-3, 9-10
Red River	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
Richland	Nov. 18-19, 24-26
Sabine	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10

St. Bernard	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
St. Charles	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
St. Helena	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
St. James	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
St. John	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
St. Landry	Area 3: Oct. 14-15, Nov. 24-26, Dec. 9-10
	Area 6: Nov. 18-19, 24-26, Dec. 9-10
St. Martin	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
St. Mary	Area 6: Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
	Area 7: Oct. 14-15, Nov. 18-19, 24-26, Dec. 9-10
St. Tammany	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Tangipahoa	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Tensas	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Terrebonne	Oct. 14-15, Nov. 18-19, 24-26, Dec. 9-10
Union	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
Vermillion	Oct. 14-15, 21-22, 28-29, Nov. 4-5, 18-19, 24-26
Vernon	Area 2: Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
	Area 3: Oct. 14-15, 21-22, 28-29, Nov. 4-5, 18-19, 24-26
Washington	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Webster	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10
West Baton Rouge	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
West Carroll	Closed
West Feliciana	Nov. 18-19, 24-26, Dec. 2-3, 9-10, 16-17
Winn	Nov. 4-5, 11-12, 18-19, 24-26, Dec. 2-3, 9-10

E. Farm Raised White-tailed Deer on Supplemented Shooting Preserves

Archery	Modern Firearm	Either Sex	Muzzleloader
Oct. 1-Jan. 31 (Either Sex)	Nov. 1-Dec. 6 Dec. 21-23 Dec. 26-Jan.31	Nov. 1-3 Dec. 21-23 Dec. 26-30	Dec. 7-20 (Either Sex)

F. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000).

Thomas M. Gattle, Jr.
Chairman

0007#086

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Forestry

Seedling Prices (LAC 7:XXXIX.301)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Forestry, proposes to amend rules and regulations regarding the price of hardwood seedlings.

The Department of Agriculture and Forestry deems the amendment of these rules and regulations necessary to assure that the agency's nursery operations continue to generate the revenue necessary to operate on a fiscally sound basis. The agency's nursery operations are funded entirely from self-generated seedling sale revenue. This action is proposed so that the selling price of hardwood seedlings will sufficiently cover the production costs of those seedlings.

The full text of this proposed rule can be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

These rules comply with and are enabled by R.S. 3:4303.

Interested persons should submit written comments on the proposed rules to Charles Mathern through the close of business on August 25, 2000, at P.O. Box 1628, Baton Rouge, LA 70821 (5825 Florida Boulevard, Baton Rouge). A public hearing will be held on these rules on August 25, 2000, at 9:30 a.m., at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is necessary.

Family Impact Statement

The proposed amendment to LAC 7:XXXIX.301 regarding the price of hardwood seedlings should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Seedling Prices

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated implementation costs or savings to state or local governmental units. The amendment of these rules and regulations is necessary to assure that the agency's nursery operations continue to generate the revenue necessary to operate on a fiscally sound basis. The agency's nursery operations are funded entirely from self-generated seedling sale revenue. This action is proposed so that the selling price of hardwood seedlings will sufficiently cover the production costs of those seedlings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule increases the prices for Hardwood Seedlings from \$175 per thousand to \$185 per thousand. Annual sales of hardwood in 1999 were approximately 3,465,000 seedlings. If future sales and production equal those of recent years, Office of Forestry revenue would increase by approximately \$35,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Customers who choose to purchase Hardwood Seedlings from the Office of Forestry would pay the additional costs that this rule would create.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact from the proposed action on any in-state company providing similar services.

Maintaining a fiscally sound seedling production operation will allow the Office of Forestry to keep all four nurseries operating. Closure of any of these nurseries would greatly impact the local economy of these areas by eliminating a source of employment for residents and revenue for local businesses.

Linda Chaney
Fiscal Coordinator
0007#032

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Structural Pest Control Commission

Pesticide Restrictions (LAC 7:XXV.117, 119, 141 and 161)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend regulations regarding obligations of a licensee and minimum specifications for termite control.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to further define the record keeping requirements of the licensee, increase the distance between stiff legs and the ground, decrease the distance between drill holes, to better define the waiver requirements, to require monitoring of bait stations in the pilot project, and to change the listing of commission-approved termiticides.

These rules comply with and are enabled by R.S. 3:3203.

Title 7

Agriculture and Animals

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§117. Obligations of the Licensee

A. - H. ...

I. Any person applying pesticides for a fee and the licensee must maintain records according to LAC 7:XXV.117.I, at the physical address listed on the place of business permit or in a format approved by the director of Pesticide and Environmental Programs of LDAF. These records must be retained for a period of two years after the date of the pesticide application for ship and commodity fumigation, general pest control and commercial vertebrate control and a period of two years after the expiration of applicable contracts for termite and other wood destroying insect control. The licensee must make a copy of these records available to any employee of the Louisiana Department of Agriculture and Forestry for inspection at a reasonable time during normal working hours.

I.1. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:954 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:

§119. Contracts for Termite Control Work

A. - E. ...

F. Copies of contracts for termite and other wood destroying insect control must be retained for a period of two years after the expiration of applicable contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:

§141. Minimum Specifications for Termite Control Work

A. Chemicals approved for termite control work which shall remain in full force and effect until superseded by a publication of a subsequent full listing.

1. All chemicals registered by the U.S. Environmental Protection Agency and the Louisiana Department of Agriculture and are approved by the commission, but only at the chemical compositions approved by the U.S. Environmental Protection Agency.

2. The commission will issue an annual listing of chemicals approved by the commission for termite control work. The listing shall become effective upon publication in the Potpourri section of the *Louisiana Register* and shall

remain in effect until changed by the commission. The commission may supplement its listing whenever any new chemical is approved for termite control work and may also remove a previously approved chemical from its approved listing by publication in the Potpourri section of the *Louisiana Register*. Upon publication of the listing of chemicals approved for termite control work, all previous listings shall be replaced repealed. The commission delegates to the State Entomologist Departments Assistant Commissioner of Agricultural and Environmental Sciences the responsibility for publication of the list of chemicals approved by the commission.

3. - B. 1. ...

C. Treatment of Existing Pier Type Construction

1. Access Openings

a. Provide suitable access openings to all crawl-space areas and to all other areas requiring inspection and/or treatment for termites.

b. A minimum clearance of 12 inches from the bottom of the sill.

2. Required Clean-up

a. Remove all cellulose-bearing debris, such as scrap wood, wood chips, paper, etc., from underneath buildings.

b. Trench, rod and treat any large stumps or roots that are too sound to be removed, provided that such stumps or roots are at least 12 inches from the foundation timbers. Stumps or roots located less than 12 inches from foundation timbers must be cut off to provide at least 12 inches clearance.

c. Remove all form boards that are not embedded in concrete.

3. Elimination of Direct Contact of Wood with Ground

a. Piers and stiff legs must have concrete or metal-capped bases extending at least three inches above the ground. Creosote or penta pressure-treated piling foundations are exempt from this requirement but should be drilled and pressure treated to the center of the piling.

b. Wood parts which extend through concrete or masonry (such as posts, door frames or stair carriages) must be cut off and set on metal or concrete bases at least three inches above ground level.

c. Wood steps must be placed on concrete or masonry bases which extend at least one inch above ground level, and beyond the steps in all directions. Multiple-course masonry step supports must be treated as required in §141.C.7.a, b, c and d.

4. Pipes

a. Remove all packing around pipes for a distance of three inches above ground level and/or trench and treat according to label and labeling.

5. Skirting and Lattice-work

a. All cellulose skirting and lattice-work must rest on solid concrete or brick extending at least three inches above the outside grade. This base will be trenched and treated.

b. There must be at least three inches clearance above outside grade if skirting or lattice-work is suspended.

6. Stucco

a. Where stucco extends to or below grade, dig trenches below and under the edge of the stucco and apply chemical as required by label and labeling.

b. Where ground slabs prevent treatment as required in Subparagraph a above, drill and treat slab as required by label and labeling. Where slab is drilled the holes must be no more than 18 inches apart (unless label requires closer distance).

7. - 8.b. ...

9. Dirt Filled Porches

a. Where the sill or other wood extends to, or below, the under side of the concrete slab, the dirt must be excavated so as to leave a horizontal tunnel at the junction of slab and foundation wall. The tunnel shall extend the full length of the fill and be at least 12 inches deep (or down to grade) and 12 inches wide. Soil in the tunnel shall be treated with chemical at all points of contact with wall and slab. Supports for the slab shall be erected in the tunnel if necessary. Tunnel shall be well ventilated, but care shall be taken to assure that water does not run into those tunnels. (See Figure 1 [in appendix])

i. Exception: If, due to construction, it is impractical to break into and excavate dirt-filled areas, a method of drilling, rodding and flooding as outlined in 141.C.9.b.ii below, may be employed. The secretary of the Structural Pest Control Commission shall be notified in these cases and permission requested prior to treatment.

b. Where the sill or other wood does not extend to or below the underside of the concrete slab, the fills may be drilled, rodded and flooded as follows.

i. Drill floor slab at intervals of not more than 18 inches (unless label requires closer distance) along the junction of the porch and the buildings: rod and treat the fill along the foundation wall of the building.

9.b.ii. - D. 3. a. ...

b. Rod under or drill through the slab and treat all areas beneath expansion joints and cracks in the slab as per label and labeling instructions. When the slab is drilled, the holes must be no more than 18 inches (unless label requires closer distance) apart along the above stated areas.

c. All other openings (plumbing, etc.) must be treated as required by label and labeling.

E. - H.2. ...

I. Waiver of Requirements of Minimum Specifications for Termite Control Work. Whenever it is impossible or impractical to treat any structure in accordance with these minimum specifications, the pest control operator may request a waiver of these requirements. A waiver must be on a form approved by secured from the Department of Agriculture prior to any treatment in any instance where all requirements of these minimum specifications cannot be complied with. A waiver shall be signed by the owner/agent of the property treated and shall be sent to the department with the company's monthly eradication report.

J. - 8.c. ...

d. monitoring may shall be used to detect the presence of subterranean termites in the soil. Monitoring may include the use of toxicant delivery systems. All delivery systems shall be inspected at regular intervals, not less than once monthly and data shall be recorded;

e. baits and baiting systems may be used as a stand-alone termite treatment only with written approval by LDAF;

f. baits and baiting systems may be used as a supplement to traditional ground termiticide treatments.

g. monitoring stations shall be placed, where soil is available a maximum of 20 feet apart around the perimeter of the structure.

h. toxicant delivery following label and labeling shall be placed in or in close proximity to each monitoring station that are infested with live termites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 26:

§161. List of Approved Termiticides

Termiticide	Percentage
Biflex TC	.06% - .12%
Demon	.25% - .50%
Dragnet FT	.50% - 1.0%
Dursban TC	1.0%
Equity	.75% - 1.0%
Chlorpyrifos TC	1.0%
Prevail	.30% - .60%
Pryfon	.75%
Tenure	.75% - 1.0%
Torpedo	.50% - 1.0%
Tribute	5.0% - 1.0%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 20:644 (June 1994), LR 21:671 (July 1995), LR 26:

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business on August 25, 2000, at 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on these rules on August 25, 2000, at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is necessary.

Family Impact Statement

The proposed amendments to LAC 7:XXV.117, 119, 141 and 161 regarding obligations of a licensee and minimum specifications for termite control. These rules and regulations should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pesticide Restrictions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated implementation cost or savings to state or local governmental units. The proposed rule change is deemed necessary to further define the record keeping requirements of the pest control licensee. They also make modifications to the minimum specification for termite control by increasing the distance between stiff legs and the ground; decreasing the distance between drill holes; improving the definition of waiver requirements; requiring monitoring of bait stations in the pilot project; and changing the listing of Commission approved termiticides.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collections to state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated effect on 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 estimated effect on competition and employment.

Linda Chaney
Fiscal Coordinator
0007#034

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Commerce and Industry
Business Division**

Commerce and Industry Board (LAC 13:I.Chapter 1)

The Department of Economic Development, Office of Commerce and Industry, Business Division, in accordance with the Administrative Procedure Act, R.S. 40:950, et seq., adopts the following rules regarding the policies and procedures of the Commerce and Industry Board.

The following rules will implement R.S. 51:921 et seq., authorizing the Secretary of the Department of Economic Development to establish rules for the Board of Commerce and Industry. The Board of Commerce and Industry serves in an advisory capacity to the Department of Economic Development. The Commerce and Industry Board's duty and function is to review and approve or disapprove applications for tax incentive programs administered by the Office of Commerce and Industry.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentives Programs

Chapter 1. General Provisions

Subchapter A. General Rules

§101. Board of Commerce and Industry

A. The principal offices of the board shall be at the Louisiana Department of Economic Development, Office of Commerce and Industry, located at One Maritime Plaza, Baton Rouge, Louisiana, or at such other place that the board may determine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:

§103. Board Membership

A. Number and Qualifications of Board Members. The board shall consist of 20 members, unless R.S. 51:923 is amended to provide for a different number of board members. Fifteen members shall be appointed by the governor from among representatives of the major economic groups within the state of Louisiana, one who shall be an elected municipal official appointed by the governor from a list of three names submitted by the Louisiana Municipal Association and one who shall be an elected police juror, councilman, commissioner or parish president appointed by the governor from a list of names submitted by the Louisiana Police Jury Association. In addition, the governor, or his designee, the lieutenant governor, or his designee, and the secretary of the Department of Economic Development, or his designee, shall be ex officio members of the board with full right to participate in and vote on all matters.

B. Appointment. Each appointment by the governor shall be submitted to the senate for confirmation and shall again be submitted by the governor to the senate for confirmation every two years after the initial confirmation.

C. Term. The members, other than the governor, lieutenant governor and the secretary of the Department of Economic Development, shall serve for terms which shall be concurrent with the term of the governor making the appointments. The governor and lieutenant governor shall serve during the term of office of each. Other than the three *ex officio* members above, all other members shall continue to serve until their successor is appointed and takes office.

D. Vacancy. A vacancy occurring for any reason shall be filled in the manner provided in §103.A hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:

§105. Compensation Of The Board

A. Members of the board shall serve without compensation. Each member shall be entitled to reimbursement for the actual and necessary expenses incurred in the performance of official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:

§107. Meetings Of The Board

A. Open Meeting. All meetings of the board shall be subject to the Open Meetings Law as provided in R.S. 42:1 et seq.

B. Annual Meeting. The year of the board shall begin February 1 each year. The meeting following the beginning of the year the board shall elect its officers who shall serve until the next annual meeting or until their successors are elected.

C. Regular Meetings. The board may meet as often as it deems necessary provided that there shall be not less than four regular meetings each year.

D. Special Meetings. A meeting may be called by the chairperson or by joint call of at least three of its members, to be held at the principal office of the board, or at such other place as may be fixed by the board.

E. Quorum. Excluding any vacancies on the board, a majority of the members of the board shall constitute a quorum. In the absence of a quorum, a majority of the members present at the time and place of any meeting may adjourn such meeting from time to time, with notice given in accordance with the Open Meeting Law.

F. Parliamentary Procedure. Unless otherwise provided by law to the contrary, all meetings of the board shall be conducted in accordance with *Robert's Rules of Order*.

G. Meeting Place. The board, its committees and sub-committees, shall hold its meetings at the principal office of the board, or at such other place as may be fixed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:

§109. Notice

A. Notice By Mail. Under the provisions of Louisiana law or these rules, whenever notice is given to any member it shall not be construed to mean personal delivery of notice. Notice will be considered to be given in writing on the day the written notice is deposited in a post office with such notice bearing the member's address as it appears in the records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:

§111. Officers

A. The officers of the board shall be elected by the members of the board and shall be a chairperson and a vice-chairperson and such other officers as the board shall consider necessary. There shall be no prohibition against officers succeeding themselves.

1. Chairperson. The chairperson shall be a member of the board and shall preside at all meetings of the board at which he or she is present. The chairperson shall perform such other duties and have such other powers as from time to time may be assigned to the office by these rules or by the board. Election of the chairperson shall be at the annual meeting or such other time as may be necessary. The chairperson shall hold office until the next annual meeting.

2. Vice-Chairperson. The vice-chairperson shall be a member of the board. At the request of the chairperson or in

the event of his absence or disability, the vice-chairperson shall perform all duties of the chairperson, and when so acting, shall have all the powers of, and be subject to all the restrictions upon, the chairperson. The vice-chairperson shall also perform such other duties and have such other powers as from time to time may be assigned to the office or to the vice-chairperson by these bylaws or by the board or by the chairperson. The vice-chairperson shall assume the role of chairperson of the screening committee. Election of the vice-chairperson shall be at the annual meeting or such other time as may be necessary. The vice-chairperson shall hold office until the next annual meeting.

B. Records. The board secretary shall keep an accurate record of all proceedings of the board, and shall be the custodian of all books, documents, and papers filed with the board and the minute books of the board. The secretary shall cause copies to be made of all minutes and other records and documents of the board and shall certify that such copies are true copies, and all persons dealing with the board may rely upon such certification. The records of the board shall be kept at the principal office of the board or at such other place that the board may determine. The records of the board shall be available for public inspection at reasonable times in the manner provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:

§113. Standing Committees

A. The board, by resolution adopted by a majority of the board then in office, may establish one or more standing committees, each which shall consist of three or more board members. Each committee shall have and exercise the authority of the board as contained within the resolution establishing such committee and shall perform such functions as shall be provided for in such resolution.

B. Appointment of Members. The officers and members of all standing and ad hoc committees shall be appointed by the chairperson.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:

§115. Speaking Before the Board

A. Time Limit Set on Speaking Before the Board

1. Petitions to the board by an applicant and/or representatives of same shall, as a group, be limited to at total of 10 minutes to put forward their plea.

2. Opponents to a given application shall, as a group, have a total of 10 minutes to put forward their opposition.

3. Any and all interested parties shall, as a group, have a total of 10 minutes to put forward their views.

4. If any group has more than one speaker, the group may divide their 10 minutes by the number of speakers in that group, however in no case will any group be allowed to speak for more than 10 minutes total.

5. Questions addressed to an applicant or others by a board member are not subject to the above time limits.

B. Any person wishing to appeal the action of the Board of Commerce and Industry or wishing to petition the board or any of its committees or sub-committees must submit

their appeal or petition along with any necessary documentation to the Office of Commerce and Industry at least 30 days prior to the meeting of the Board of Commerce and Industry, the committee or sub-committee, during which the appeal or petition will be presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:

Interested persons may comment on the proposed rules, in writing, at the following address: Robert Paul Adams, Director of Business Incentives Division, Office of Commerce and Industry, Box 94185, Baton Rouge, LA 70804-9185, or call (225) 342-5360.

Harold Price
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES TITLE: Commerce and Industry Board

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rules will result in no implementation costs (or savings) to the state or local governmental units other than those one-time costs directly associated with the publication of these rules. This is a codification of existing rules. No changes to existing rules have been made.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of local governmental units associated with this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is anticipated that no significant affect on competition or employment in the state will occur as a result of these rules.

Harold Price Assistant Secretary 0007#031	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Student Tuition and Revenue Trust (START Saving)
Program (LAC 28:VI.107, 301, 307, 309)

The Louisiana Tuition Trust Authority (LATTA) announces its intention to amend rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2). The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., August 20, 2000, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Student Tuition and Revenue Trust (START Saving) Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation cost associated with publishing revisions and re-promulgating the START Program rules is approximately \$400. These program revisions to make the program more attractive and simplify distribution are not expected to impact program costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections is anticipated to result from the revision.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
These changes will make the program more attractive to those who wish to save for college expenses and simplify distribution of funds.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley Assistant Executive Director 0007#009	H. Gordon Monk Staff Director Legislative Fiscal Office
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NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Opportunity Program for Students (TOPS)CHigh
School Grade Point Average Calculator
(LAC 28:IV. 301, 703, 803, 903, 1703)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS). The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., August 20, 2000, to Jack

L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tuition Opportunity Program for
Students (TOPS)C High School Grade Point
Average Calculator**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$200. The purpose of this action is to clarify the requirements for calculating the grade point average for the TOPS program. This will not require increased funding. There are no costs inconsistent with current budgetary appropriations for this purpose.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections is anticipated to result from this rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
High school administrators will be provided clarification of the requirements for calculating the grade point average for the TOPS program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0007#010

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Trust Authority Bylaws (LAC 28:VI. 201, 203)

The Louisiana Tuition Trust Authority (LATTA), the statutory body created by R.S. 17:3093 et seq., in compliance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby announces its intention to revise its governing bylaws. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

Part VI. Student Tuition Trust Authority

Chapter 2. Bylaws

§201. Definitions and Authority

Business of the Authority (as used in these bylaws)CActivities on behalf of the authority, including

attendance at authority meetings and authority committee meetings; presentations at legislative committee hearings on issues or bills which relate to the role, scope, mission or programs assigned the authority; presentations to the public and to federal and state officials related to the role, scope, mission, or programs assigned the authority; and participation in projects, meetings or conferences related to the role, scope, mission or programs assigned the agency; all or any of the foregoing as directed by the authority, authorized by the chairman or a committee chairman, or requested by the executive director.

Services (as used in these bylaws)CConducting the Business of the Authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1653 (December 1997), amended LR 26:

§203. Meetings

A. - B. ...

C. Compensation

1. Members of the authority shall receive per diem as compensation for their services at the rate authorized by statute or as authorized by executive order. Members shall be reimbursed for their necessary travel expenses actually incurred in the conduct of the business of the authority.

2. The authority is limited to twelve meetings per year for which per diem may be drawn by authority members.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Financial Assistance, LR 23:1653 (December 1997), amended LR 26:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., August 20, 2000, to Jack L. Guinn, Executive Director, Office of Student Finance Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tuition Trust Authority Bylaws**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation cost associated with adopting this change includes approximately \$120 to publish the change in the *Louisiana Register*. Additional cost to the program will depend on the number of meetings attended and authorized activities occurring during the year. For each additional meeting attended by all members the per diem cost will be \$1,150 and the estimated travel expenses will be \$350. The cost of travel expenses for other activities will depend on the number of members involved, their home location, and the length of the activity.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections is anticipated to result from this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No impact on non-governmental groups is anticipated to result from this action

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0007#011

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment**

Solid Waste and Statewide Beautification
(LAC 33:VII.115, 707, Chapter 13 and Chapter 101)

Under the authority of the Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the solid waste regulations, LAC 33:VII.115, 707, 717, Chapter 13, and Chapter 101 (Log #SW028).

This proposed rule contains changes to include infectious wastes and actions required for offloading and transloading of solid wastes. Chapter 13 is being added to address litter abatement in the state in accordance with R.S. 30:2521, et seq. The regulations in Chapter 101. Recycling Awareness, are no longer applicable to the department's solid waste program, and this Chapter is being repealed. The basis and rationale for this proposed rule are to comply with R.S. 30:2521, et seq. and make minor changes to the Solid Waste regulations.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S. 49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§115. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

[See Prior Text]

Autoclave Steam sterilization at a temperature of at least 120° C (248° F) and a pressure of at least 15 pounds per square inch for at least 30 minutes. Longer times are required depending on the amount of waste, the presence of water, and the type of container used. Alternate patterns of temperature, pressure, and time may be used if compatible with the sterilization equipment being used and

demonstrably sufficient to kill disease-causing microorganisms.

* * *

[See Prior Text]

Type II-A Facility A facility used for processing residential, infectious, or commercial solid waste (e.g., transfer station, incinerator waste-handling facility, refuse-derived fuel facility, shredder, baler, autoclave, or compactor). (If the facility is also used for processing industrial solid waste, it is also a Type I-A facility.)

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq. and 2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 7. Solid Waste Standards

Subchapter A. General Standards

§707. Standards Governing Pickup Stations for Solid Waste

* * *

[See Prior Text in A - D]

E. Each person must provide written notice to the parish governing authority, at least 30 days prior to construction, of his intent to operate a pick-up station for the offloading and/or transloading of processed solid waste and sewage sludge destined for disposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq., and 2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. Solid Waste Processors

§717. Standards Governing All Solid Waste Processors (Type I-A and II-A)

* * *

[See Prior Text in A - B.4]

5. Receiving and Monitoring Incoming Wastes

a. Each processing facility shall be equipped with a device or method to determine quantity (by wet-weight tonnage); sources (whether the waste was generated in-state or out-of-state and, if it is industrial solid waste, where it was generated); and types of incoming waste (i.e., commercial, residential, infectious). The facility shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, unauthorized, or unpermitted solid waste).

* * *

[See Prior Text in B.5.b- I.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq. and 2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by

the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 13. Statewide Beautification

§1301. Purpose

A. It is declared to be the purpose of these rules and regulations to:

- 1. control and reduce litter; and
- 2. create a statewide beautification program to enhance the tourist, recreational, and economic development of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2521, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1303. Definitions

A. The following words, terms, and phrases, when used in conjunction with LAC 33:VII.Subpart 1, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning.

Commission Cthe Louisiana Litter Reduction and Public Action Commission.

Dump Cto throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

Litter Call waste material, except as provided and defined in R.S. 30:2173(2), including but not limited to, disposable packages, containers, sand, gravel, rubbish, cans, bottles, refuse, garbage, trash, debris, dead animals, furniture or appliances, automotive parts including, but not limited to, tires and engines, trailers, boats and boating accessories, tools and equipment, and building materials, or other discarded materials of any kind and description. Litter shall not include agricultural products that are being transported from the harvest or collection site to a processing or market site if reasonable measures are taken to prevent the agricultural product from leaving the transporting vehicle. Litter shall also not include recyclable cardboard being transported in compressed bundles to processing facilities. **Agricultural product**, as used in this definition, means all crops, livestock, poultry, and forestry; and all aquacultural, floracultural, horticultural, silvicultural, and viticultural products.

Local Governing Authority Cthe governing authority of the parish or the governing authority of the municipality in which the littering offense was committed.

Public or Private Property Cthe right-of-way of any road or highway, levee, any body of water or watercourse or the shores or beaches thereof, any park, playground, building, refuge, or conservation or recreation area, and residential or farm properties, timberland, or forests.

Section Cthe Litter Reduction and Public Action Section located within and acting through the Office of Environmental Services of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2522, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1305. Louisiana Litter Abatement Program

A. The purpose of the Louisiana Litter Abatement Program shall be to support the community-based litter abatement programs.

B. Program Award

1. Program awards shall be made available to local governments and nonprofit organizations.

2. Funding through the program shall be subject to the availability of funds.

3. All requests for awards shall be made in writing on a form provided by the department to the Litter Reduction and Public Action Section of the Office of Environmental Services.

4. The monies awarded through the award shall be used to further the administration and execution of the Keep Louisiana Beautiful Program. Allowable uses of award funding shall include, but not be limited to:

- a. Keep America Beautiful fees;
- b. Keep America Beautiful precertification training, education curriculums, and workshops;
- c. law enforcement seminars;
- d. litter surveys;
- e. projects, services, activities, and operational costs of litter abatement programs;
- f. materials and services for program development and training;
- g. direct expenditures for materials that can facilitate litter reduction, recycling, waste reduction, reuse, and general solid waste management programs;
- h. minimal advertising, public relations, and promotional materials necessary for publicity and promotion of program activities; and
- i. salary of the program coordinator.

5. Each successful applicant shall supplement award funds with a 25 percent match from other sources. All matching funds must be available to the program after the date of the program award, and funds spent prior to the program award shall not be considered eligible in fulfilling the match requirement.

6. Awards shall be awarded based on a comparative basis as determined by the Litter Reduction and Public Action Section of the Office of Environmental Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2524, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subpart 2. Recycling

Chapter 101. Repealed

§10101. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1070 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10103. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1070 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10105. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1070 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10107. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1070 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10109. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1070 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10111. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1071 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10113. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 15:1071 (December 1989), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on August 24, 2000, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by SW028. Such comments must be received no later than August 31, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-5095. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of SW028.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104

Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Solid Waste and Statewide
Beautification**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of implementation of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment are not expected to be significantly affected as a result of the implementation of this rule.

James H. Brent, Ph.D.
Assistant Secretary
0007#075

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners in Dietetics and Nutrition**

License and General Rules

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., notice is given that the Louisiana Board of Examiners in Dietetics and Nutrition pursuant to the authority vested in the board by R.S. 37:3085(4), intends to adopt rules amending the board's rules and regulations pertaining to the supervision requirements for provisionally licensed dietitian/nutritionists and changing the biennial renewal fee for licensed dietitian/nutritionists to an annual renewal fee in accordance with R.S. 37:3088.B. The proposed amendments of the rules are set forth below.

Rule 111. Issuance and Renewal of Licensure

A. - C. 1. ...

2. To meet initial licensure and license renewal requirements, a provisionally licensed dietitian/nutritionist shall practice under the direct supervision of a licensed dietitian/nutritionist. Direct supervision is defined as a licensed dietitian/nutritionist providing sufficient guidance and direction to enable a provisional licensed dietitian/nutritionist to perform competently. The supervising licensee needs to be readily available by telecommunications or in person and will review the

provisionally licensed dietitian/nutritionist's work quarterly and submit a written report annually to the board that the applicant is in the process of meeting the experience requirements in anticipation of taking the examination.

D. - H. 9. ...

Rule 119. General Fees

In accordance with the provisions of the act, the following fees, where applicable, are payable to the board by check or money order. Fees are nonrefundable, except for the initial license fee, if application is not approved.

* * *

License Renewal Fee \$60.00

* * *

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these proposed rule changes on the family has been considered.

These proposed rules have no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Suzanne L. Pevey, Administrator, Louisiana Board of Examiners in Dietetics and Nutrition, 11930 Perkins Road, Suite B, Baton Rouge, LA 70810, or by facsimile to (225) 763-5400. All comments must be submitted by 4:30 p.m., Friday, July 21, 2000.

Elizabeth Guinn, LDN, RD
Chairperson

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: License and General Rules

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana State Board of Examiners in Dietetics and Nutrition estimates that it will cost approximately \$1,589.00 to implement the proposed amendments to the Board's Rules and Regulations in the fiscal year 2001.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the proposed rules relative to an annual renewal fee will generate approximately \$30,000 annually in additional revenues. These funds are needed in order to allow the Board to carry out the mandates of the Louisiana Dietetic/Nutrition Practice Act.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The costs to directly affected persons will be a \$30.00 annual increase in the renewal fee for 1,000 Licensed Dietitian/Nutritionists in the state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment related to the proposed rules.

Suzanne L Pevey
Administrator
0007#018

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

Pharmacy Technicians (LAC 46:LIII.Chapter 8)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend the proposed rule as it was published in the April 2000 *Louisiana Register*.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII: Pharmacists

Chapter 8. Pharmacy Technicians

§801. Qualifications

A. A pharmacy technician trainee (hereinafter referred to as trainee) shall meet the following conditions.

1. Age—at least 18 years of age, as evidenced by copy of birth certificate.
2. Character—good moral character and be non-impaired.
3. Submit copy of current criminal background check.
4. Education—high school graduate or GED equivalent, as evidenced by copy of credential.
5. Experience—obtain a minimum of 500 hours practical experience in a pharmacy permitted by the board, as evidenced by signed affidavit.
6. Examination—submit evidence that trainee has passed a Board approved pharmacy technician examination.

B. Exception—A pharmacist or pharmacist intern whose license has been denied, revoked, suspended, or restricted for disciplinary reasons by any Board of Pharmacy shall not be a trainee or a pharmacy technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§803. Experience

A. Upon receipt of a properly completed application for a Pharmacy Technician Trainee Work Permit, the board shall issue a work permit to the trainee in order to obtain the necessary practical experience.

1. The work permit shall be displayed in the prescription department.
2. The work permit shall expire one year from the effective date.
3. After expiration of an initial work permit, the trainee shall not apply for another work permit for a period of 18 months.
4. A trainee shall notify the board, in writing, within ten days of a change in the mailing and/or home address, giving their name and social security number, as well as old and new addresses.
5. The board shall reserve the right to refuse or recall any work permit for just cause.

B. A trainee shall supply by affidavit evidence of a minimum 500 hours practical experience earned under the direct and immediate supervision of a pharmacist.

1. The ratio of pharmacist to trainee on duty shall not exceed one-to-one.

2. Hours shall be listed on an affidavit supplied by the board, signed by the pharmacist and the trainee, notarized, and submitted to the board for approval and/or credit.

3. A trainee may receive credit for a maximum of 50 hours per week.

4. A trainee shall not obtain hours in a permitted site that is on probation or with a pharmacist who is on probation.

5. A separate affidavit shall be required for each permitted site.

6. Hours submitted on an affidavit shall be valid for not more than one year following the expiration date of the work permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§805. Examination

A. A board approved pharmacy technician examination shall consist of integrated subject disciplines, as the board may deem appropriate.

B. A pharmacy technician examination may be offered when necessary as determined by the board.

C. A trainee shall pass a board approved pharmacy technician examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§807. Pharmacy Technician Certificate

A. Upon receipt of a properly completed and notarized application and the appropriate fee, and following verification that all requirements have been satisfied, the board shall issue a pharmacy technician certificate to the trainee.

B. The pharmacy technician certificate shall be displayed in a conspicuous place in the prescription department in such a manner as to be visible to the public. The annual renewal shall be attached or posted next to the pharmacy technician certificate.

C. In the event of loss or destruction of a pharmacy technician certificate, the board may issue a duplicate upon receipt of a properly completed and notarized affidavit and the appropriate fee.

D. The pharmacy technician annual renewal shall expire and become null and void on June 30 of each year.

1. The board shall mail no later than May 1 of each year an application for renewal to all pharmacy technicians.

2. An application for a lapsed pharmacy technician renewal, accompanied by all outstanding fees, shall be referred to the board's reinstatement committee for consideration.

E. A pharmacy technician shall notify the board, in writing, within ten days of any change in mailing and/or home address, giving their name and certificate number, as well as old and new addresses.

F. A pharmacy technician shall notify the board, in writing, within ten days of a change in employment, listing

the name, address, and permit numbers of old and new employment pharmacies, as well as their name and certificate number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§809. Continuing Education

A. A minimum of one ACPE or board approved CPE unit, or ten hours, shall be required each year as a prerequisite for annual renewal.

B. Certified pharmacy technicians shall maintain copies of individual records of personal CPE activities at their primary practice site for two years and present them when requested by the board.

C. If judged appropriate by the board, some or all of the required number of hours may be mandated on specific subjects. When so deemed, the board shall notify all pharmacy technicians prior to the beginning of the year in which the CPE is required.

D. Complete compliance with CPE rules is a prerequisite for renewal of a pharmacy technician certificate.

1. Non-compliance with the CPE requirements shall be considered a violation of R.S. 37:1241.A.(2), and shall constitute a basis for the board to refuse annual renewal.

2. The failure to maintain an individual record of personal CPE activities or falsifying CPE documents shall be considered a violation of R.S. 37:1241.A.(22).

3. The inability to comply with CPE requirements shall be substantiated by a written explanation, supported with extraordinary circumstances, and submitted to the board for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§811. Impaired Pharmacy Technician

A. An impaired pharmacy technician is one who suffers from a condition that may cause an infringement on the ability to work safely or accurately. The impairment may be caused by, but not limited to, the following factors: substance abuse or addiction, mental illness, physical illness or injury.

B. The board may require an impaired pharmacy technician to comply with the Louisiana Board of Pharmacy Recovery Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§813. Implementation

A. This chapter shall become effective December 1, 2000.

B. All trainee work permits issued on or before November 30, 2000 shall expire on December 31, 2000.

C. On December 1, 2000, trainees who are in need of additional practical experience to meet the requirement of 500 hours may apply for one new work permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

The full text of these proposed rules may be obtained by contacting the Louisiana Board of Pharmacy at 5615

Corporate Blvd., Suite 8-E, Baton Rouge, LA 70808, or by telephoning (225) 925-6496.

Any person may submit data, views, or positions, orally or in writing, to the Louisiana Board of Pharmacy before or during the public hearing, which will be held from 1 p.m. to 4 p.m. on August 24, 2000, at the board office.

Malcolm J. Broussard, RPh
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Technicians**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost to the agency to implement the proposed rule consists of printing and distribution of the rule to the 2000 holders of the Louisiana Board of Pharmacy Book of Laws and Regulations. That cost is estimated to be \$3,422 in FY 00-01. The agency has sufficient self-generated funds budgeted and available to implement this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The agency anticipates and has budgeted a decrease of \$10,000 in licensure fees from pharmacy technicians for FY 00-01. Currently, the board has certified approximately 3,000 pharmacy technicians; about 500 are certified each year. The board estimates that only 400 will become certified in FY 00-01, with that number increasing in the following year. As the pool of pharmacy technician trainees adapt to the new rules, the board anticipates a return to baseline in the number of new pharmacy technician licenses issued annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only persons directly affected by this proposed rule are the approximately 700 pharmacy technician trainees currently working towards certification as pharmacy technicians. There is no increase in costs to the trainees as a result of this proposed rule. The board is unable to determine any impact or income or receipts by the trainees as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Following an initial decrease in the number of pharmacy technician trainees qualifying for certification and employment as pharmacy technicians, the board anticipates a return to baseline in the number of new pharmacy technician licenses issued annually by the agency. The effects on competition cannot be anticipated at this time.

Malcolm J Broussard, RPh
Executive Director
0007#017

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code Sewage Disposal (Chapter XIII)

In accordance with provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend Section 13:011-3 of Chapter XIII (Sewage Disposal) of the Louisiana Sanitary Code, pursuant to R.S. 40:4, as

amended by Acts 1978, No. 786; Acts 1982, No. 619; Acts 1986, No. 885; Acts 1988, No. 942. Predominantly, the amendment to this portion of the Louisiana Sanitary Code is necessary in order to comply with the requirements of Act 505 of the 1995 Regular Session of the Legislature. Act 505 mandated installation of effluent reduction systems following approved individual sewerage systems up through 1,500 gpd capacity, and gave the Department of Health and Hospitals authority to require such effluent reduction systems. Chapter XIII of the Louisiana Sanitary Code is proposed to be amended as follows:

Insert Section 13:011-3 to read as follows:

13:011-3 Effective October 20, 2000, this rule applies to new individual sewerage system installations, upgrades and/or modifications to existing systems required as a result of an investigation by the Office of Public Health (OPH) into an allegation that a violation of Chapter XIII of the Louisiana Sanitary Code has occurred or is occurring, and has the potential for causing harm or creating a nuisance to the general public (R.S. 46:5 Section 1:001). Such individual sewerage systems with a capacity up to and including 1,500 gpd, that produce treated effluent, and which, by design, do not significantly reduce the amount of off-site effluent, shall be followed by an effluent reduction system constructed as described in Section IX of Appendix A of this Chapter.

**IX. Effluent Reduction System Requirements
For Treated Wastewater**

A:9.1 Disinfectants.

Where effluent discharges are required to be disinfected, and chlorine is used as the disinfectant, a chlorine contact chamber is required. Calcium hypochlorite, labeled for wastewater disinfection, shall be added in sufficient concentrations to maintain a minimum residual of 0.5 ppm total chlorine in the effluent. In order to achieve the required chlorine contact time, a baffled chlorine contact chamber (Figure 11, Figure 12) designed to meet the needs for each system with the specified liquid holding capacity shall be used as follows:

Disinfectant Chamber Minimum Liquid Capacity	
Treatment Capacity Of Sewerage System	Contact Chamber Liquid Capacity
500 gpd or less	30 Gallons
501 - 750 gpd	45 Gallons
751 - 1000 gpd	60 Gallons
1001 - 1500 gpd	90 Gallons

Any other disinfectant proposed for use should provide an equivalent level of disinfection.

A:9.2 Pumping Stations. Pumping station, when required, must be constructed of approved materials, and must comply with the applicable provisions of this Code.

A:9.3 Effluent Reduction Systems. Individual sewage systems, with a capacity up to and including 1,500 gpd, that produce a treated, off-site effluent, shall include an effluent reducer as part of the overall system (Figure 14).

A:9.4 Special situations may arise where an individual on-site wastewater treatment system is allowed as per paragraph 13:011-2 of this Code, but it is physically impossible to install the required size of the effluent reduction system or the effluent reduction system itself due

to lot size or when a limited use sewerage system is installed in a marsh/swamp area or located over water. The size of the effluent reduction system can be reduced to the maximum amount the lot can accommodate or the installation waived with the authorization of the Sanitarian Parish Manager. Written notification of such authorization must be submitted to the Sanitarian Regional Director and a copy attached to the "Application For Permit For Installation of On-Site Wastewater Disposal System" (LHS-47).

A:9.5 All effluent reduction systems shall be installed by a licensed installer. Existing field lines can not be used as the effluent reduction system.

A:9.6 The size of the effluent reduction system installed has to correspond with the recommended size of the sewerage system. For example if a 750 gpd plant is required on the "Application For Permit For Installation of On-Site Wastewater Disposal System" (LHS-47), the applicant may install a 1,000 gpd plant, however the size of the effluent reduction system only has to correspond to the minimum size required for a 750 gpd plant.

A:9.7 The sample port for a sewerage system must be installed immediately downstream of the system and in accordance with the appropriate edition and section of NSF Standard 40, as currently promulgated, as well as the applicable provisions of this Code.

Effluent Reduction Options

A:9.8-1 Effluent Reduction Field

This system is installed downstream of a mechanical treatment plant or other sewage treatment system listed in Appendix A of this Code that produces an effluent, but does not by design significantly reduce that effluent. The effluent reduction field is essentially a soil absorption field as described in Section 3 of this Appendix, but with modification as noted in this Section. Figure 15 has a diagram with specifications and cross-sections of the Effluent Reduction Field.

A:9.8-2 If there is not sufficient grade to install the sewerage system and the Effluent Reduction Field with gravity flow to the discharge point, then a pump station in compliance with applicable provision of this Code must be installed.

A:9.8-3 The force of the pumped effluent must be reduced by use of a distribution box, "Tee", or similar appurtenance.

A:9.8-4 The Effluent Reduction Field trenches shall be at least 18 inches wide and between 16 to 24 inches in depth.

A:9.8-5 The bottom of the Effluent Reduction Field must be level.

A:9.8-6 The fill or cover material shall be of porous soil or sand which allows the passage of water in all directions, with sod started on top. Fill should be at least 4 to 6 inches above grade and spread at least three to four feet on either side of the trench.

A:9.8-7 The Effluent Reduction Field must be installed a minimum of ten feet from any property line. In addition the ERF field location shall comply with the minimum distance requirements from water wells and suction lines, etc., as contained in Chapter 12 of this Code.

A:9.8-8 The minimum length of the Effluent Reduction Field shall be determined by the treatment capacity of the Sewerage System:

Treatment Capacity of Sewerage System	Minimum Total Length Per Field
500 gpd or less	100 FT
501 - 750 gpd	150 FT
751 - 1000 gpd	200 FT
1001 - 1500 gpd	300 FT

A:9.8-9 If more than one absorption trench is used to provide the minimum required length of the effluent reduction field, the distance between individual trenches must be at least six feet with one discharge pipe provided.

A:9.8-10 The pipe from the end of the Effluent Reduction Field to the discharge point must be solid.

A:9.8-11 A check valve must be provided at the end of the effluent reduction field whenever the discharge line is less than 12 inches above the ditch flow-line.

A:9.8-12 Each individual trench must not be greater than 100 feet in length. Clam or oyster shells may be substituted for gravel in the Effluent Reduction Field. If used, gravel must be clean, graded and 2-inch to 22 inches in diameter. Other media may be considered for use if determined to have acceptable characteristics and properties.

A:9.8-13 Gravelless pipe or other distribution chambers may be used in lieu of conventional soil absorption pipe. If gravelless pipe is used, the fill must be porous soil or sand which allows the passage of water in all directions, with a 6-inch layer below the pipe and filled 4 to 6 inches above grade and spread 3 to 4 feet on either side of the trench.

A:9.9-1 Rock-Plant Filter

All rock plant filters must be a minimum of five feet wide to a maximum of ten feet wide.

A:9.9-2 The square footage will be determined by the treatment capacity of the Sewerage System as follows:

Treatment Capacity of Sewerage System	Rock Plant Filter Size
500 gpd or less	150 square feet
501 - 750 gpd	225 square feet
751 - 1000 gpd	300 square feet
1001 - 1500 gpd	450 square feet

Refer to Figure 16 for a schematic and cross section of a rock plant filter with a sewerage system installation.

A:9.9-3 The rock plant filter must be installed a minimum of ten feet from any property line. In addition, the RPF location shall comply with the minimum distance requirements from water wells and suction lines, etc., as contained in Chapter 12 of this Code.

A:9.9-4 If there is not sufficient grade to install the sewerage system and the Rock Plant Filter with gravity flow to the discharge point, then a pumping station in compliance with applicable provisions of this Code must be installed.

A:9.9-5 In order to prevent backflow, a check valve is required whenever the discharge line is less than 12 inches above the ditch flow-line.

A:9.9-6 Only a standard shape bed may be installed with a minimum width of five feet and of such length as to provide the required square footage.

A:9.9-7 Plans for any other configuration must be submitted for review and approval to the Sanitarian Regional Director.

A:9.9-8 A liner will be required when the ground water level is within 24 inches of the bottom of the trench.

A:9.9-9 The polyethylene liner may be of more than one layer provided a total thickness of 16 mil is achieved.

A:9.9-10 When a liner is not required, the use of landscape fabric is highly recommended to prevent weed intrusion.

A:9.9-11 The bottom of the bed must be level and be no deeper than 14 inches.

A:9.9-12 A depth of approximately 10 to 12 inches is best.

A:9.9-13 Gravel must be 2-3 inches in diameter and laid to a depth of 12 inches.

A:9.9-14 An 8-inch water level must be maintained. Gravel should fill the filter bed to above surface grade to prevent erosion.

A:9.9-15 The minimum four-inch perforated inlet pipe must be located no closer than 4 inches from the bottom of the bed and supported by a footing of noncorrosive material, such as concrete or treated timber.

A:9.9-16 The inlet should extend no more than two feet into the rock plant bed and must be provided with a "Tee" (with ends capped) extending the width of the bed to within one foot of the side walls.

A:9.9-17 The outlet pipe shall also be set in a footing of noncorrosive material (concrete or treated timber) on the bottom of the bed with the same "Tee" and configuration. The outlet must be elbowed up and out (Figure 17).

A:9.9-18 Do not allow plants to grow within three feet of the inlet and outlet of the bed.

A:9.9-19 A levee support system around the perimeter of the filter should be constructed to exclude surface water. The use of landscape timbers for this purpose is acceptable. Other materials, such as concrete, can also be used.

A:9.10-1 Spray Irrigation

The spray irrigation system (Figure 18) uses an electric pump that distributes the effluent to the yard through sprinkler heads. The effluent from the treatment system collects in a pumping chamber. At a predetermined level, a float switch activates a pump that forces the effluent through piping to pop-up or elevated rotating type sprinkler heads. Evaporation and soil infiltration of the dispersed effluent should prevent any run-off from occurring.

A:9.10-2 A pump station system must be sized according to use and comply with the applicable provisions of this Code.

A:9.10-3 The pressure pump must be a minimum of 1/2 horsepower capable of producing a minimum flow of 12 gallons per minute and maintaining 25 psi at all sprinkler heads.

A:9.10-4 The pump will be activated by a high/low water switch through a manual on/off switch. The pump must be deactivated through a low-volume cut off.

A:9.10-5 A time cycle device may be used to allow for specific sprinkling times (e.g., nighttime, afternoon). The pump chamber must be of adequate liquid capacity to allow sufficient storage to accommodate the desired time settings.

A:9.10-6 A minimum of three 4-inch type heads coded for wastewater effluent, spaced a minimum of 40 feet apart are required.

A:9.10-7 The spray irrigation sprinklers shall comply with American Society of Agricultural Engineers (ASAE) Standard S 398.1 (Procedure for Sprinkler Testing and Performance Reporting).

A:9.10-8 The edge of the spray must be a minimum of 50 feet from the nearest well and 10 feet from any property line. The slope of the land must be such as to facilitate drainage away from the well. In addition, the edge of the spray shall comply with the minimum distance requirements for water wells, lines, etc., as contained in Chapter 12 of this Code.

A:9.10-9 Exceptions due to lot size, topography or other constraints may be authorized by the Sanitarian Parish Manager with written notification of such authorization to the Sanitarian Regional Director and a copy attached to the LHS-47.

A:9.11-1 Overland Flow

When the size of the property is 3 acres or more, an overland flow may be utilized (Figure 19).

A:9.11-2 The discharge through perforated pipe must be distributed in such a manner as to confine the effluent on the property owned by the generator.

A:9.11-3 The location of the overland discharge must have a permanent vegetative cover.

A:9.11-4 The discharge point and the field of flow must be a minimum of 50 feet from the nearest well and the slope of the land must be such as to facilitate drainage away from the well. In addition, the discharge point and the field of flow shall comply with the minimum distance requirements from water wells, lines, etc., as contained in Chapter 12 of this Code.

A:9.11-5 A header should be used at the end of the discharge line to help disperse the effluent and to discourage channelization. The point of discharge must be such that there is at least a 200-foot flow of effluent over the property of the generator.

A:9.11-6 Construction of the system should be such that it is not closer than 20 feet from the property line.

A:9.12 Mound System or Subsurface Drip Disposal (Figure 20; Figure 21)

Either can be considered by DHH-OPH on a case to case basis. Plans and specifications must be submitted to DHH-OPH Engineering Services in consultation with the Sanitarian Regional Director for review and approval prior to construction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by Department of Health and Human Resources, Office of Public Health, LR 10:802 (October 1984); LR 11:1086 (November 1985); amended by the Department of Health and Hospitals, Office of Public Health, LR 19:49 (January 1993); LR 26:

Written comments regarding the proposed rule must be received no later than August 21, 2000, and should be addressed to: James Antoon, Chief Sanitarian Services, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810. A public hearing on this proposed rule will also be held on August 24, 2000 at 10 a.m. in Room 230 at 6867 Bluebonnet Boulevard, Baton Rouge, LA.

Copies of the proposed rule (including accompanying drawings) are available for public review at the Office of State Register, 1051 North Third Street, Baton Rouge, Louisiana 70802, (225) 342-5015, and at the following Office of Public Health offices during normal business

hours: 6867 Bluebonnet Boulevard, Baton Rouge, LA; 1500 Lee Street, Alexandria, LA; 1772 Wooddale Boulevard, Baton Rouge, LA; 1525 Fairfield Avenue, Room 569, Shreveport, LA; 206 East Third Street, Thibodaux, LA; 2913 Betin Street, Monroe, LA; 825 Kaliste Saloom Road, Suite 100, Lafayette, LA; 520 Old Spanish Trail, Slidell, LA; 4240 Senator J. Bennett Johnston Avenue, Lake Charles, LA.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sanitary Code C Sewage Disposal**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be an estimated \$720.00 implementation cost in FY 2000-01 for the publication of this rule in the *Louisiana Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue(s) increases to both state and local governmental units are projected as a result of increased state and local sales tax(es) collections associated with increased costs of mandatory wastewater systems requirements, as well as with respect to ad valorem tax(es) increases, where applicable beginning in FY 2000-01. Projected increased collections are being estimated at approximately \$1,125,000 for FY 00-01 and \$1,175,000 for FY 01-02.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be additional costs to consumers who utilize wastewater treatment systems addressed by the proposed action during FY 2000-01. The average additional cost to an average related consumer will be approximately \$1,250 per system for all new installations, upgrades and/or modifications to existing systems required as a result of a valid complaint (an investigation that a violation of Chapter XIII of the Louisiana Sanitary Code has occurred or is occurring).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action will in all likelihood increase competition and employment in the private sector. Related providers of goods and services addressed by the proposed action will be most likely affected. The amount of increase in either category is, however, inestimable at this time.

David W. Hood
Secretary
0007#077

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Health and Hospitals
Office of Public Health**

Sanitary Code C Sewage Disposal (Chapter XIII)

In accordance with provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend Paragraph 6.5 of Appendix A of Chapter 13 (Sewage Disposal) of the Louisiana Sanitary Code, pursuant to R.S. 40:4, as amended by Acts 1978, No. 786; Acts 1982, No. 619; Acts 1986, No. 885; Acts 1988, No. 942.

The amendment to this paragraph of the Louisiana Sanitary Code will extend for approximately an additional 60 days the final date for compliance with a newer standard for the testing, evaluation, and approval of residential mechanical wastewater treatment plants, and conforms with the recommendation of the Governor's Task Force on Individual Wastewater Treatment Systems.

Paragraph 6.5 of Appendix A of Chapter 13 (Sewage Disposal) of the Louisiana Sanitary Code is revised to read as follows:

A:6.5 All individual mechanical plants currently approved for installation in Louisiana as of the effective date of these regulations shall not be required to meet the requirements of paragraph 6.4 until March 1, 2001. Until March 1, 2001, plants shall continue to comply with the standards under which they were approved. Effective March 1, 2001, all plants shall comply with the standard as stated in paragraph 6.4.

Comments regarding the proposed rule should be addressed to: Bobby G. Savoie, Executive Director, Division of Environmental Health Services, 6867 Bluebonnet Blvd., Baton Rouge, LA 70810. A public review hearing will be held on August 23, 2000 at 10:00 a.m. in Room 230 of the Division of Environmental Health Services, 6867 Bluebonnet Blvd., Baton Rouge, LA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4
HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of Public Health, LR 10:802 (October 1984); Emergency Rule (July 24, 1985) and LR 11:1086 (November 1985); LR 19:49 (January 1993); LR 25:49 (January 1999); LR 25:2408 (December 1999), LR 26:

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sanitary Code C Sewage Disposal**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Implementation of the proposed action will cost the agency approximately \$160 in publication costs for FY 2000-01.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
A portion of revenue increases to both state and local governmental units projected as a result of increased state/local sales tax collections associated with the increased costs of mandatory wastewater systems requirements, as well as with respect to ad valorem tax increases (where applicable), would be delayed for approximately 60 days. Revenue collections of state or local governmental units at a rate of 3 percent each (or \$380 each) would be reduced by an approximate total of \$760 for FY 2000-01 as a result of the 60 day delay as proposed in this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Costs to consumer groups (individuals and businesses) who utilize individual mechanical wastewater treatment systems addressed by the proposed would remain unaffected for approximately an additional 60 days. The previously projected average additional cost to an affected consumer (of approximately \$125) would be delayed for approximately an additional 60 days.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

This action will delay the previously projected increased competition and employment in the private sector. Realted providers of goods and services addressed by the proposed action will also remain unaffected until the newly proposed implementation date.

David W. Hood
Secretary
0007#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Nursing Facilities CReimbursement Methodology

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

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage under the Medicaid Program for private nursing facility services. Payments for nursing facility services are made in accordance with the prospective reimbursement methodology adopted effective August 1, 1984 (*Louisiana Register*, Volume 10, Number 6). A rule was subsequently adopted to establish patient specific classifications of care in accordance with requirements of the Omnibus Budget Reconciliation Act (OBRA) of 1987 (*Louisiana Register*, Volume 16, Number 12). Subsequent rules were adopted to establish specialized nursing facility levels of care for specific types of patients in skilled nursing units such as Skilled Nursing/Infectious Disease (SN/ID) and Skilled Nursing/Technology Dependent Care (SN/TDC). The payment for SN/ID and SN/TDC was established as a cost-based reimbursement methodology (*Louisiana Register*, Volume 14, Number 12 and Volume 15, Number 11). The Bureau determined that it was necessary to adopt a rule to amend the December 20, 1988, and November 20, 1989, rules by converting the reimbursement methodology for SN/ID and SN/TDC services from a cost-based to a prospective methodology (*Louisiana Register*, Volume 25, Number 11).

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses nursing facilities for Skilled Nursing-Infectious Disease (SN/ID) and Skilled Nursing-Technology Dependent Care (SN/TDC) services under a prospective reimbursement methodology. This methodology utilizes the skilled nursing (SN) rate inflated to the applicable rate year plus an average allowable cost per day. The allowable cost per day is

determined through the department's audit process in accordance with allowable cost guidelines for SN/ID and SN/TDC and based on cost reports for the provision of these services plus a five percent incentive factor inflated to the midpoint of the year preceding the rate year.

A. Reimbursement Methodology. Reimbursement for SN/ID and SN/TDC services shall be set at the rate paid for skilled nursing level of care plus a prospective statewide enhancement to ensure reasonable access to appropriate services. The enhancement shall be based on average allowable incremental costs of all acceptable cost reports for the year on which the rates are based and in accordance with guidelines for allowable incremental costs and inflated forward to reflect current costs. In addition, the following requirements must be met.

1. The facility must have a valid Title XIX provider agreement for provision of nursing facility services;

2. The facility must be licensed to provide nursing facility services; and

3. The facility must have entered into a separate contractual agreement with the Bureau to provide SN/ID and/or SN/TDC services in accordance with standards for the care of individuals with infectious diseases or technological dependency and meet all applicable staffing and services requirements.

B. Allowable Incremental Costs for SN/ID

1. Direct Nursing Costs are based on demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/ID services. Nursing services personnel includes head/charge nurse, registered nurses (RNs), licensed practical nurses (LPNs), nurse assistants, and orderlies. These costs exclude administrative nursing costs not directly related to patient care.

a. A minimum of 4.0 nursing hours per patient day for infectious disease residents is required. Costs for direct patient care in excess of 9.6 hours per patient day are not allowable on the SN/ID supplemental cost report;

b. The marginal portion of demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/ID services in excess of nursing requirements for routine skilled nursing services will be allowed as SN/ID cost.

2. Other Direct Care Services are based on demonstrated appropriate services including the following.

a. Respiratory therapy, social services or any other specialized services that are directly attributable to SN/ID status and not otherwise covered in the SN rate.

b. Specialized nursing supplies related to SN/ID status must be supported by detailed justification that substantiate the cost of any specialized nursing supplies.

c. Specialized dietary needs related to SN/ID status must be supported by detailed justification that substantiate the cost of any specialized dietary needs.

3. Plant & Maintenance costs are based on demonstrated dependency of SN/ID special equipment. Costs associated with demonstrated enhanced infection control measures are included. Capitalized purchases are not included.

4. Allocated Costs are based on the ratio of direct nursing hours required for SN/ID service not covered in the regular skilled rate (1.4 hours per resident day) related to total facility direct nursing hours. The following costs are

allocated: administrative and general, nursing administration (DON), housekeeping, medical supplies and dietary.

5. Incentive Factor is equal to five percent of the average allowable incremental costs added to the enhanced rate in order to assure reasonable access to SN/ID services.

C. Allowable Incremental Costs for SN/TDC.

1. Direct Nursing Costs are based on demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/TDC services. Nursing service personnel includes head/charge nurse, registered nurses (RNs), licensed practical nurses (LPNs), nurse assistants, and orderlies. These costs exclude administrative nursing costs not directly related to patient care.

a. a minimum of 4.5 nursing hours per patient day for technology dependent care residents is required. Costs for direct patient care in excess of 9.6 hours per patient day are not allowable on the SN/TDC supplemental cost report;

b. the marginal portion of demonstrated salary and related benefits cost of nursing service personnel directly related to providing SN/TDC services in excess of nursing requirements for routine skilled nursing services will be allowed as SN/TDC cost.

2. Other Direct Care Services are based on demonstrated appropriate services including the following:

a. respiratory therapy, social services or any other specialized services that are directly attributable to SN/TDC status and not otherwise covered in the SN rate;

b. specialized nursing supplies related to SN/TDC status must be supported by detailed justification that substantiate the cost of any specialized nursing supplies;

c. specialized dietary needs related to SN/TDC status must be supported by detailed justification that substantiate the cost of any specialized dietary needs.

3. Plant & Maintenance costs are based on demonstrated dependency of SN/TDC special equipment. Capitalized purchases are not included.

4. Allocated Costs are based on the ratio of direct nursing hours required for SN/TDC service not covered in the regular skilled rate (1.9 hours per resident day) related to total facility direct nursing hours. The following costs are allocated: administrative and general, nursing administration (DON), housekeeping, medical supplies and dietary.

5. Incentive Factor is equal to five percent of the average allowable incremental costs added to the enhanced rate, in order to assure reasonable access to SN/TDC services.

Facilities shall submit cost reports at the end of each 12 month period. Providers shall be required to segregate SN/ID or SN/TDC costs from other long term care costs and to submit a supplemental cost report which shall be subject to audit. No duplication of costs shall be allowed and allowable costs shall be in accordance with Medicare cost principles.

Rates for SN/ID and SN/TDC services will be re-based as determined necessary by the department to ensure that appropriate services are reimbursed on a reasonable cost basis, recognizing the need for accountability for public funds, as well as the provider's right to a fair payment for

services rendered. Base rate adjustments will result in a new base rate component which will be used to calculate the rate for subsequent years. A base rate adjustment may be made when the event, or events, causing the adjustment is not one that would be reflected in inflationary indices.

Annual inflationary adjustments shall be contingent upon appropriations by the Legislature.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Friday, August 25, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing FacilitiesC Reimbursement
Methodology**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$173,418 for SFY 1999-2000, \$226,331 for SFY 2000-01, and \$274,320 for SFY 2001-02. It is anticipated that \$320 (\$160 SGF and \$160 FED) will be expended in SFY 1999-2000 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$410,852 for SFY 1999-2000, \$635,872 for SFY 2000-01, and \$654,949 for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will convert the reimbursement methodology for Skilled Nursing-Infectious Disease (SN/ID) and Skilled Nursing-Technology Dependent Care (SN/TDC) services from a cost-based to a prospective methodology reimbursement. This proposed rule will increase reimbursement to private nursing facility providers by approximately \$583,950 for SFY 1999-2000, \$902,203 for SFY 2000-01, and \$929,269 for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

David W. Hood
Secretary
0007#050

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Fees (LAC 43:XIX.Chapter 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes to amend the established fees.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation - General Operations

Subpart 2. Statewide Order No. 29-R-00/01

Chapter 7. Fees

§701. Definitions

Application Fee Can amount payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by industries under the jurisdiction of the Office of Conservation. The total revenue collected from the application fees shall not exceed \$2,250,000 for Fiscal Year 2000-2001 and thereafter.

Application for Automatic Custody Transfer Can application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order No. 29-G-1 (LAC 43:XIX.2301 et seq...), or successor regulations.

Application for Commercial Class I Injection Well Can application to construct a commercial Class I injection well, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq...) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq...), or successor regulations.

Application for Commercial Class I Injection Well (Additional Wells) Can application to construct additional Class I injection wells within the same filing, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq..) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq..), or successor regulations.

Application for Commercial Class II Injection Well Can application to construct a commercial Class II or Class V injection well, as authorized by Statewide Order No. 29-B (LAC 43:XIX.129 et seq.) or Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq..), or successor regulations.

Application for Commercial Class II Injection Well (Additional Wells) Can application to construct additional Class II or Class V injection wells within the same filing, as authorized by Statewide Order 29-B (LAC 43:XIX.129 et seq.), or successor regulations.

Application for Multiple Completion Can application to multiply complete a new or existing well in separate common sources of supply, as authorized by Statewide Order No. 29-C-4 (LAC 43:1301 et seq.), or successor regulations.

Application for Noncommercial Injection Well Can application to construct a Class I, II, III, or V noncommercial injection well, as authorized by Statewide Order Nos. 29-B (LAC 43:XIX.129 et seq.), 29-M (LAC 43:XVII.301 et seq.), 29-N-1 (LAC 43:XVII.101 et seq.), and 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Permit to Drill (Minerals) Can application to drill in search of minerals, as authorized by La. R.S. 30:28.

Application for Public Hearing Can application for a public hearing as authorized by R.S. 30:1, et. seq..

Application for Substitute Unit Well Can application for a substitute unit well as authorized by Statewide Order No. 29-K-1 (LAC 43:XIX.2901 et seq.), or successor regulations.

Application for Surface Mining Development Operations Permit Can application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Exploration Permit Can application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized in Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Permit Can application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Unit Termination Can application for unit termination as authorized by Statewide Order No. 29-L-2 (LAC 43:XIX.3100 et seq.), or successor regulations.

Application for Well Classification (NAPA) Can application requesting the classification of a well, as authorized by Section 503 of the Natural Gas Policy Act of 1978.

Application to Amend Permit to Drill (Injection or Other) Can application to alter, amend, or change a permit to drill an injection, or other well after its initial issuance, as authorized by R.S. 30:21.

Application to Amend Permit to Drill (Minerals) Can application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by La. R.S. 30:28.A.*

*Application to Amend Operator (transfer of ownership) for any multiply completed well which has reverted to a single completion, any non-producing well which is plugged and abandoned within the time frame directed by the Commissioner, as well as any stripper crude oil well or incapable gas well so certified by the Department of Revenue shall not be subject to the application fee provided herein.

Application to Commingle Can application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order No. 29-D-1 (LAC 43:XIX.1500 et seq. and LAC 43:XIX.1700 et seq.), or successor regulations.

Application to Process Form R-4 Can application for authorization to transport oil from a lease as authorized by Statewide Order No. 25 (LAC 43:XIX.900 et seq.), or successor regulations.

Application to Renew Permit to Drill (Injection or Other) Can application to renew a permit to drill an injection, or other well, as authorized by R.S. 30:21.

Application to Renew Permit to Drill (Minerals) Can application to renew a permit to drill for minerals, as authorized by R.S. 30:28.B.

BOE Annual barrels oil equivalent. Gas production is converted to BE by dividing annual mcf by a factor of 7.

Capable Gas Natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue and Taxation.

Capable Oil Crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue.

Class I Well A Class I injection well used to inject hazardous or nonhazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 (LAC 43:XVII.101 et seq.) or 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Class I Well Fee An annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class I wells in an amount not to exceed \$400,000 for Fiscal Year 2000-2001 and thereafter.

Class II Well A Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production, for annular disposal wells, for enhanced recovery of oil or natural gas, and for storage of hydrocarbons. For purposes of administering the exemption provided in L.A.-R.S. 30:21(B)(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the Severance Tax Division of the Department of Revenue and Taxation and located in the same field as such Class II well.

Class III Well A Class III injection well which injects for extraction of minerals or energy.

Emergency Clearance Emergency authorization to transport oil from lease.

Production Fee An annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity on a dollar amount between the wells. The tiered system shall be established annually by rule on capable oil and capable gas production, including nonexempt wells reporting zero production during the annual base period, in an amount not to exceed \$2,250,000 for Fiscal Year 2000 - 2001 and thereafter. Incapable oil, stripper oil, incapable gas well gas and incapable oil well gas shall be exempt from this fee.

Production Well Any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, LAC 43:XIX.137.G, or successor regulations), multiply completed wells reverted to a single completion, and stripper oil wells certified by the Severance Tax Division of the Department of Revenue and Taxation.

Regulatory Fee An amount payable annually to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class II wells, Class III wells, storage wells, Type A facilities, and Type B facilities in an amount not to exceed \$875,000 for Fiscal Year 2000-2001 and thereafter. No fee shall be imposed on a Class II well of

an operator who is also an operator of a stripper crude oil well or incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and located in the same field as such Class II well. Operators of Record, excluding operators of wells and including, but not limited to, operators of gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of \$105. Such payment is due within the time frame prescribed by the Office of Conservation.

Type A Facility Commercial oilfield waste disposal facilities within the State that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.129 et seq.), or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

Type B Facility Commercial oilfield waste disposal facilities within the State that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.129 et seq.), or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq..

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:758 (March, 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:

§703. Fee Schedule for Fiscal Year 2000-2001

A. Application Fees	Amount
Application for Unit Determination	\$ 233
Application for Substitute Unit Well	\$ 233
Application for Public Hearing	\$ 700
Application for Multiple Completion	\$ 233
Application to Commingle	\$ 233
Application for Automatic Custody Transfer	\$ 233
Application for Noncommercial Injection Well	\$ 233
Application for Commercial Class I Injection Well	\$1,165
Application for Commercial Class I injection Well (Additional Wells)	\$ 582
Application for Commercial Class II Injection Well	\$ 582
Application for Commercial Class II Injection Well (Additional Wells)	\$ 290
Application for Permit to Drill - Minerals: 0' - 3,000'	\$ 117
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$ 582
Application for Permit to Drill - Minerals: 10,001' +	\$1,165
Drill Minerals Deeper (> 3,000')	\$ 466

Drill Minerals Deeper (> 10,000')	\$ 582
Application to Amend Permit to Drill - Minerals	\$ 117
Application to Amend Permit to Drill - Injection or Other	\$ 117
Application for Surface Mining Exploration Permit	\$ 60
Application for Surface Mining Development Operations Permit	\$ 87
Application for Surface Mining Permit	\$2,039
Application to Process Form R-4	\$ 34
Application to Reinstate Suspended Form R-4	\$ 60
Application for Emergency Clearance Form R-4	\$ 60

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,650 per facility.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,825 per facility.

3. Operators of record of permitted Class II injection/disposal wells are required to pay \$ 550 per well.

4. Operators of record of permitted Class III and Storage wells are required to pay \$ 550 per well.

C. Class I Well Fees: Operators of permitted Class I wells are required to pay \$9,090 per well.

D. Production Fees: Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

	Annual Production (Barrel Oil Equivalent)	Fee (\$ Per Well)
Tier 1	0	13
Tier 2	1 - 5,000	67
Tier 3	5,001 - 15,000	190
Tier 4	15,001 - 30,000	318
Tier 5	30,001 - 60,000	508
Tier 6	60,001 - 110,000	699
Tier 7	110,001 - 9,999,999	857

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:758 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:

§705. Failure to Comply

Operators of operations and activities defined in §701 are required to timely comply with this order. Failure to comply within 30 days past the due date of any required fee payment will subject the operator to civil penalties under the provisions of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as well as penalties provided in other sections of Title 30, including R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq. ...

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November

1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-00/01, and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-00/01) supersedes Statewide Order No. 29-R-99/00.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Tuesday, September 5, 2000. Comments should be directed, in writing, to Philip N. Asprodites, Commissioner of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275.

A public hearing will be held at 9 a.m., Tuesday, August 29, 2000, in the Conservation Auditorium, located on the first floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana.

Philip N. Asprodites
Commissioner of Conservation

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Statewide Order No. 29-R-00/01 will result in collection of approximately \$5.76 million by the Office of Conservation, of which approximately \$990,000 is new revenue. Local governmental units will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Statewide Order No. 29-R-00/01 will result in the collection of \$5.76 million of application, regulatory, production, and Class I well fees during FY 2000-2001, of which approximately \$990,000 is new revenue. Fees will be paid by operators of capable oil and capable gas wells, Class I injection wells, non-exempt Class II injection wells, Class III wells, storage wells, Type A and Type B facilities, and operators filing applications with the Office of Conservation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Philip N. Asprodites
Commissioner of Conservation
0007#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services
Office of Adult Services**

Adult Offenders
(LAC 22:I.365)

In accordance with the Administrative Procedures Act R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of intent to amend regulations dealing with the Disciplinary Rules for Adult Offenders.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter B. Disciplinary Rules for Adult Offenders

§365. Disciplinary Rules

A. - C. ...

D. Defiance (Schedule B). No inmate shall commit or threaten physically or verbally to commit bodily harm upon an employee. No inmate shall curse or insult an employee and/or his family. No inmate shall threaten an employee in any manner, however, an inmate may advise an employee of planned legal redress even during a confrontational situation (although an inmate's behavior in such a situation may not be disrespectful or violate any other disciplinary rule.) No inmate shall obstruct or resist an employee who is performing his proper duties. No inmate shall try to intimidate an employee to make the employee do as the inmate wants him to do. Employees shall not be subject to abusive conversation, correspondence, phone calls or gestures.

E. - Z. ...

AUTHORITY NOTE: Promulgated in accordance with RS. 15:823, *Wolff v. McDonald*, 94 S.Ct.2963 (1974) and *Ralph v. Dees*, C/A/ 81-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:653 (May 1993), LR:

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, Box 94304, Capitol Station, Baton Rouge, LA 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m. on April 20, 2000.

Family Impact Statement

In accordance with the Administrative Procedures Act, LSA-R.S. 49:953(A)(1)(a)(viii) and LSA- R.S. 49:972, the Department of Public Safety & Corrections, Corrections Services, hereby provides the Family Impact Statement.

Adoption Of This Regulation Will Have No Effect On The Stability Of The Family, On The Authority And Rights Of Parents Regarding The Education And Supervision Of Their Children, On The Functioning Of The Family, On Family Earnings And Family Budget, On The Behavior And Personal Responsibility Of Children Or On The Ability Of

The Family Or A Local Government To Perform The Function As Contained In The Proposed Regulation.

Richard L. Stalder
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Adult Offenders**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The minor amendments to the current rule will not result in any implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups resulting from the amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Richard L. Stalder
Secretary
0007#089

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of Public Safety
Department of Public Safety and Corrections
Corrections Services**

Medical Reimbursement Plan
(LAC 22:I.2105)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of intent to amend regulations dealing with the Medical Reimbursement Plan.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 21. Medical Reimbursement Plan

§2105. Medical Reimbursement Plan Pursuant to R.S. 15:831(B)(1)

A. - A.1. ...

A.2. Inmates shall file a claim with a private medical or health care insurer, (or any public medical assistance program under which the inmate is covered and from which the inmate may make a claim), for payment or reimbursement of the cost of any such medical treatment. Upon receipt of the claim proceeds, the inmate shall reimburse the department for the cost of medical services provided.

B. - B.1. ...

B.2. The facility should require that the inmate file a claim with a private medical or health care insurer, (or any public medical assistance program under which he is covered and from which the inmate may make a claim), for payment or reimbursement of the cost of any such medical treatment. Upon receipt of the claim proceeds, the inmate shall reimburse the facility for the cost of medical services provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Corrections Services, LR 26:331 (February 2000), amended LR 26:

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, Box 94304, Capitol Station, Baton Rouge, LA 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m. on August 20, 2000.

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety & Corrections, Corrections Services, hereby provides the Family Impact Statement.

Adoption of this amendment will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule amendment.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Reimbursement Plan

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The minor amendments to the current rule will not result in any implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups resulting from the amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Richard L. Stalder
Secretary
0007#090

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Motor Vehicles

Driver's License Handling Fee (LAC 55:III.153)

Pursuant to the authority contained in R.S. 32:412.1, and in accordance with the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of Motor Vehicles proposes to adopt LAC 55, Part III, Chapter 1, Subchapter A, §153, regarding the assessment of the \$8 handling fee whenever the Department administers the knowledge test in case of initial issuance, special examinations, or an examination required because the driver's license has been expired for six months or more.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§153. Additional Handling Fees

Pursuant to the authority contained in R.S. 32:412.1(B), as amended by Act No. 1 of the 2000 first extraordinary session, a handling fee of \$8 is assessed on the following transactions.

1 The administration of the knowledge test for a driver's license, regardless of the class of the license in cases of initial issuance, special examinations, and examinations required because the driver's license has been expired for six months or more.

2 The administration of the knowledge test for a motorcycle endorsement at the time of first issuance of the endorsement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412.1(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 26:

Persons having comments or inquiries regarding these proposed rules may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by Tuesday, August 22, 2000. A public hearing on this rule is tentatively scheduled for Tuesday, August 29, 2000, at 9:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing as no hearing will be conducted if an insufficient number of comments are received during the comment period.

Family Impact Statement

1. The effect of these rules on the stability of the family.

This proposal should have no effect on the stability of the family. This is a minimal fee which in most cases will only be assessed against a person once in their lifetime.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children.

This proposal should have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family.

This proposal should have a no effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget.

This proposal should have a minimal effect on family earnings and family budget. In most cases, this fee will be assessed against a person only once in their lifetime.

5. The effect of these rules on the behavior and personal responsibility of children.

This proposal should have no effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules.

This proposal should have no effect on ability of each family member to obtain a driver's license upon the initial issuance of the license. This proposal should have no effect on local government as local government has no involvement in the issuance of driver's license.

Nancy VanNortwick
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Driver's License Handling Fee**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than minimal computer programming costs at the beginning, there should be no cost to state government. There should be no costs to local governments because only the state administers knowledge tests and issues driver's licenses.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This program will be implemented on November 1, 2000. During the remaining eight months of FY 00-01, a projected 18,047 knowledge tests will be administered generating \$99,258.50 in self generated funds and \$45,117.50 in dedicated funds which will be deposited in the OMV Customer Service & Technology Fund.

In FY 01-02, the first full year of implementation, there will be an increase of revenue to the state in the amount of two hundred seventeen thousand, four hundred fifty-six dollars (\$217,456). This total is based on a projected number of 27,182 tests. \$5.50 of each handling fee is self-generated funds and \$2.50 of each handling fee is dedicated funds. There will be an increase of \$149,501.00 in self-generated funds annually and an increase of \$67,955.00 in dedicated funds to be deposited in the OMV Customer Service & Technology Fund.

The Customer Service and Technology fund is being used to purchase a new mainframe computer and related materials for the Department. The self-generated dollars are used to help cover Office of Motor Vehicle salary costs and to provide a guaranteed revenue stream for revenue bonds used to finance the construction of the new Department Headquarters at Independence Park in Baton Rouge.

There should be no increase of revenue to local governments as only the state administers knowledge tests and issues driver's licenses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

First time applicants, persons taking the knowledge test as part of a special examination, persons who have let their driver's license lapse for more than 6 months, and persons seeking a motorcycle endorsement will pay an additional \$8.00 because they will be required to take the knowledge test prior to the issuance of the driver's license.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The assessment of this fee for the administration of knowledge tests for driver's licenses should have no effect on competition and employment as only the state administers the knowledge test and issues driver's licenses.

Nancy Van Nortwick
Undersecretary
0007#066

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

Louisiana Children's Trust Fund (LAC 67:V.1001)

The Department of Social Services, Office of Community Services, proposes to amend the existing rule in the Louisiana Administrative Code, Title 67, Part V, Subpart 2. Community Services. In accordance with R.S. 46:2406, the Children's Trust Fund has completed preparation of the Plan for Preventing Child Abuse and Neglect in Louisiana 2000-2002.

Title 67

SOCIAL SERVICES

Part V. Community Services

Subpart 2. Community Services

Chapter 10. Children's Trust Fund

§1001. Plan for Preventing Child Abuse and Neglect

A. Pursuant to R.S. 46:2406, the proposed Plan has been submitted to the Joint Committee on Health and Welfare of the Louisiana Legislature for approval prior to adoption by the Louisiana Children's Trust Fund Board. The plan becomes effective subsequent to adoption by the Louisiana Children's Trust Fund Board and will form the basis for future activities of the Children's Trust Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2406.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 20:898 (August 1994), amended LR 23:1326 (October 1997), amended LR 26:

A copy of the Plan is available for review by the public at the Louisiana Children's Trust Fund Office, 333 Laurel, Room 700, Baton Rouge, LA, 70801. Interested parties may call the office 225-342-2245 to make arrangements to review the plan.

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES : Louisiana
Children's Trust Fund**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that the only cost will be for printing and distribution at approximately \$5,000.00 which will be paid out of current Children's Trust Fund (Office of Community Services) funds. There will be no increased cost as a result of implementation of proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Plan approval process will not affect revenue collection of state and local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Upon approval of the Plan for Preventing Child Abuse and Neglect, all future grant awards and other activities of the Louisiana Children's Trust Fund will be based upon the Plan. It will be necessary for all budget requests submitted by a non-profit or public agency to the Children's Trust Fund for funding child abuse and neglect prevention programs to conform to the Plan.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this rule will not significantly impact competition and employment in the public and private sectors although the Children's Trust Fund's contracts will be awarded based upon the Plan as adopted.

J. Renea Austin-Duffin
Secretary
0007#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Daily Take and Possession Limits of King Mackerel,
Spanish Mackerel and Cobia (LAC 76:VII.327)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.327, establishing a commercial trip limit of 3,000 pounds for king mackerel. Authority for adoption of this Rule is included in R.S. 56:6(25)(a) and R.S. 56:326.3. Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§327. Daily Take and Possession Limits of King Mackerel, Spanish Mackerel, and Cobia

A. - D. ...

E. Commercial King Mackerel

1. No person shall take, harvest, land, or possess aboard a harvesting vessel king, mackerel in excess of a recreational bag limit unless that person is in possession and has in his immediate possession a valid commercial fishing license, commercial gear licenses (if applicable) and a valid commercial vessel license. Persons taking, harvesting, landing, possessing or selling or attempting to sell king mackerel taken in or from the EEZ shall be in possession of

a valid federal permit for Gulf King Mackerel issued by the National Marine Fisheries Service. The holder of such valid commercial licenses or federal permits (if applicable) shall not take, possess, land, sell, barter, trade or exchange or attempt to take, sell, barter, trade or exchange king mackerel, whole or eviscerated, in excess of 3,000 pounds at any time.

2. No person aboard any vessel shall transfer or cause the transfer of king mackerel between vessels on state or federal waters.

3. Persons possessing king mackerel for commercial purposes shall not possess a recreational bag limit in addition to the 3,000 pound limitations as required herein.

4. No person shall sell, purchase, barter, trade or exchange or attempt to sell, purchase, barter, trade or exchange king mackerel, whole or eviscerated, in excess of 3,000 pounds. Except that such limitation shall not apply to the resale of king mackerel by a validly licensed wholesale/retail seafood dealer who purchased such king mackerel in compliance with the regulations and requirements of this section and in compliance with other requirements of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.1, and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:868 (October 1989), amended LR 17:207 (February 1991), LR 19:513 (April 1993), LR 26:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Mr. Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Wednesday, September 6, 2000.

In accordance with Act Number 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding notice of intent. This notice of intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES : Daily Take and
Possession Limits of King Mackerel, Spanish
Mackerel and Cobia**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no state or local governmental implementation costs. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed regulation change would establish a king mackerel commercial trip limit of 3,000 pounds in state waters and is intended to provide consistent state and federal regulations. Costs and/or economic benefits derived from the implementation of the proposed rule are expected to be negligible, since the majority (80%) of king mackerel are harvested from federal waters and federal regulations are already at the proposed 3,000 pounds per trip limit. Setting a 3,000 pound king mackerel trip limit in state waters will increase the number of king mackerel fishing trips, and could shorten the average fishing trip or cause harvesters to target other fish species to compensate for the increased per unit costs associated with limiting the per trip harvest amount of king mackerel. No additional permits, fees, or paperwork will occur from the proposed rule change.

King mackerel merchants and consumers will also be affected by the proposed rule. Merchants and consumers could experience a slight increase in price, but should benefit from a longer and more stable supply of king mackerel over the commercial fishing season. Harvesters should benefit from a higher and more stable per unit dockside price for king mackerel. This is due to the reduction in domestic supply at any given time, over the longer fishing season. Not enough information is available to determine if the increase in the dockside per unit price will exceed the additional costs per unit that will be incurred by setting trip limits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

Thomas M. Gattle, Jr.
Chairman
0007#043

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Turkey SeasonC2001
(LAC 76:XIX.113)

The Wildlife and Fisheries Commission at its July meeting does hereby give notice of its intent to promulgate rules and regulations governing the hunting of wild turkeys. A synopsis of said rule is attached to and made part of this Notice of Intent, along with a complete copy of the regulations.

**Title 76
WILDLIFE AND FISHERIES**

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Seasons

§113. Turkey Hunting Regulations

A. Daily limit is one gobbler, three gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzle-loading shotguns, using shot not larger than number 2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages feeding agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G All licensed turkey hunters are required to have a Turkey Stamp in their possession while turkey hunting in addition to basic and big game licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:

§115. Statewide Turkey Hunting Areas-Resident Game Birds and Animals

A. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	3/season

B. Turkey Hunting Schedule

Area	Season Dates
A	March 2-April 22
B	March 31-April 15
C	March 24-April 1

C. 2000 Turkey Hunting Season - Open Only in the Following Areas

1. Area A - March 24-April 22
 - a. All of the following parishes are open:
 - i. East Baton Rouge;
 - ii. East Feliciana;
 - iii. LaSalle;
 - iv. Livingston;

- v. Natchitoches (Exception: See Kisatchie National Forest hunting schedule for National Forest dates);
 - vi. St. Helena;
 - vii. St. Tammany;
 - viii. Tangipahoa;
 - ix. Washington;
 - x. West Baton Rouge;
 - xi. West Feliciana (including Raccourci Island).
- b. Portions of the following parishes are also open:
- i. Allen: North of La. 26 from DeRidder to the junction of La. 104 and north of La. 104;
 - ii. Avoyelles: That portion bounded on the east by the Atchafalaya River northward from Simmesport, on the north by Red River to the Brouillette Community, on the west by La. 452 from Brouillette to La. 1 eastward to Simmesport, and that portion surrounding Pomme de Terre WMA, bounded on the north, east and south by La. 451, on the west by the Big Bend Levee from its junction at the Bayou des Glaise structure east of Bordelonville southward to its junction with La. 451;
 - iii. Beauregard: North of La. 26 east of DeRidder, north and east of U.S. 171-190 from the junction of La. 26 to DeRidder, and north of U.S. 190 from DeRidder to Texas state line;
 - iv. Caldwell: West of Ouachita River southward to Catahoula Parish line, east of La. 165 from LaSalle Parish line to the junction of La. 126, north of La. 126 westward to the Winn Parish line;
 - v. Catahoula: West of Ouachita River southward to La. 559 at Duty Ferry, north of La. 559 to La. 124, south and west of La. 124 from Duty Ferry to La. 8 at Harrisonburg and north of La. 8 to La. 126, north and east of La. 126. Also that portion lying east of La. 15;
 - vi. Concordia: That portion east of Hwy. 15 and west of Hwy. 65 from its juncture with Hwy. 15 at Clayton;
 - vii. Evangeline: North and west of La. 115, north of La. 106 from St. Landry to La. 13, west of La. 13 from Pine Prairie to Mamou and north of La. 104 west of Mamou;
 - viii. Franklin: That portion lying east of Hwy. 17 and east of Hwy. 15 from its juncture with Hwy. 17 at Winnsboro;
 - ix. Grant: All of the parish except that portion of land that lies north of the Red River between U.S. 71 and La. 8. EXECEPTION: See Kisatchie National Forest hunting schedule for season dates;
 - x. Iberville: West of La. Hwy. 1. Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
 - xi. Madison: That portion lying west of U.S. Hwy. 65 and south of U.S. Hwy. 80;
 - xii. Pointe Coupee: All except that portion bounded on the west by La. 77 and La. 10, northward from U.S. 190 to La. 1 at Morganza, on the north and east by La. 1 to its junction with La. 78 and by La. 78 from Parlang to U.S. 190. Further exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
 - xiii. Rapides: All of the parish except that portion of lands that lies north of the Red River and south of U.S. Hwy. 71 from its juncture with the Red River northward to the Grant Parish line. Exception: See Kisatchie National Forest hunting schedule for season dates;

- xiv. Richland: That portion south of U.S. Hwy. 80 and east of Hwy. 17;
 - xv. Sabine: That portion north of Hwy. 6 from Toledo Bend Lake to Many; east of Hwy. 171 from Many to the Vernon Parish line;
 - xvi. St. Landry: That portion bounded on the north by U.S. 190, west by the West Atchafalaya Basin Protection Levee. ALSO that portion of the parish bounded on the north by La. 10 from the West Atchafalaya Basin Protection Levee to Burton's Lake, on the east by Burton's Lake, on the south by Petite Prairie Bayou to its junction with the old O.G. Railroad right-of-way then by the O.G.R.R. right-of-way westward to U.S. 71 and on the west by the West Atchafalaya Guide Levee to its junction with La. 10, EXCEPT the Indian Bayou tract owned by the U.S. Corps of Engineers;
 - xvii. Upper St. Martin: All within the Atchafalaya Basin. Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
 - xviii. Tensas: That portion west of Hwy. 65 from the Concordia Parish line to its juncture with Hwy. 128, north of La. 128 to St. Joseph; west and north of La. 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands lying east of the main channel of the Mississippi River;
 - xix. Vernon: That portion east of Hwy. 171 from the Sabine Parish line to the junction of Hwy. 111, south of Hwy. 111 westward to Hwy. 392, and south of Hwy. 392 westward to the Sabine Parish line. Exception: See Kisatchie National Forest hunting schedule for season dates.
2. Area B - March 31-April 15
- a. All of the following parishes are open:
 - i. Bienville;
 - ii. Bossier;
 - iii. Claiborne;
 - iv. Lincoln;
 - v. Red River;
 - vi. Webster, including Caney Ranger District of Kisatchie National Forest.
 - vii. Union
 - b. Portions of the following parishes are open:
 - i. Caddo: That portion north of La. 2 from the Texas state line to U.S. 71, east of U.S. 71 from La. 2 to I-20, south of I-20 from U.S. 71 to U.S. 171, and east of U.S. 171 to the DeSoto Parish line;
 - ii. DeSoto: That portion east of U.S. 171 from the Caddo Parish line to U.S. 84 and south of U.S. 84;
 - iii. East Carroll: East of U.S. 65 from Arkansas state line to Madison Parish line;
 - iv. Jackson: West of Parish Road 243 from Lincoln Parish line to Parish Road 238, west and south of Parish Road 238 to La. 144, west of La. 144 to La. 34, west of La. 34 to Chatham, north and west of La. 4 from Chatham to Weston, north and west of La. 505 from Weston to Wyatt, west of U.S. 167 from Wyatt to Winn Parish line;
 - v. Ouachita: East of La. 143 from Union Parish line to Bayou Darbonne, north of Bayou Darbonne to the Ouachita River, west of the Ouachita River from the mouth of Bayou Darbonne northward to the Union Parish line;
 - vi. Morehouse: West of U.S. 165 from the Arkansas line to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-

4 to Bastrop, north of U.S. 165 from Bastrop to Ouachita Parish line;

3. Area C - March 24-April 1

a. All of the following parish is open:

i. Winn (Exception: see Kisatchie National Forest hunting schedule for season dates)

b. Portions of the following parishes are open:

i. Ascension: All east of the Mississippi River;

ii. Allen: South of La. 26 from DeRidder to Oberlin, west of U.S. 165 south of Oberlin;

iii. Avoyelles: South of La. 1 to West Protection Levee, south to Avoyelles Parish line;

iv. Beauregard: South of La. 26 east of DeRidder, east of U.S. 171 from the junction of La. 26 to Ragley, south of La. 12 west to Ragley;

v. Calcasieu: South of La. 12 east of Dequincy, east of La. 27 from Dequincy to I-10, and north of I-10 east of Sulphur;

vi. Concordia: North and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to U.S. Hwy. 84, south of U.S. Hwy. 84 eastward to La. Hwy. 15 (Ferriday), east of La. Hwy. 15 northward to U.S. Hwy. 65 (Clayton), east of U.S. Hwy. 65 northward to Tensas Parish line;

vii. Iberville: All east of the Mississippi River;

viii. Jefferson Davis: West of U.S. 165 and north of I-10;

ix. Madison: South of Hwy. 80 and east of U.S. Hwy. 65 to Tensas Parish line and all lands lying east of the main channel of the Mississippi River;

x. St. Landry: That portion bounded on the south by La. 10, on the west by the West Atchafalaya Basin Protection Levee, on the east by La. 105, and on the north by the Avoyelles Parish line;

xi. Tensas: East and south of U.S. Hwy. 65 from Concordia Parish line to Hwy. 128, south of Hwy. 128 to St. Joseph, east and south of La. Hwy. 605, 604 and 3078 northward to Port Gibson Ferry.

xii. Franklin and Richland Parishes - That portion lying west of La. Hwy. 17 from Ringle Road to La. Hwy. 577 at Crowville, north of La. Hwy. 577 to La. Hwy. 15 at Baskin, east of La. Hwy. 15 to Big Creek, and south and east of Big Creek to junction of Little Road, and south of Little, Ferguson and Ringle Roads to La. Hwy. 17.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:

§117. 2000 Wildlife Management Area Turkey - Hunting Regulations

A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. All trails and roads designated as ATV Only shall be closed to ATVs from March 1 through September 15. ATV off-road or trail travel is prohibited. Walk-in hunting only (bicycles permitted), unless opened by sign on trail.

4. Bag limits on WMAs are part of the season bag limit. The bag limit for turkeys on Wildlife Management Areas is two per area, not to exceed two per season for all WMAs. Only one turkey is allowed to be taken during special lottery hunts. The bag limit for turkeys is one gobbler per day and three gobblers per season including those taken on WMAs.

B. Permits

1. Self-Clearing Permits: All turkey hunts, including lottery hunts, are self-clearing and all hunters must check in daily by picking up a permit from a self-clearing station. Upon completion of each daily hunt, the hunter must check out by completing the hunter report portion of the permit and depositing it in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts: Bayou Macon, Dewey Wills, Georgia-Pacific, Loggy Bayou, Sabine, Sherburne, Sicily Island and Tunica Hills WMAs are restricted to those persons selected as a result of the pre-application lottery. Deadline for receiving applications is February 15, 2001. Application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements.

3. Requests for information on WMA regulations, permits, lottery hunt applications and maps may be directed to any district office: [District 1 C 1401 Talton Street, Minden, 71055; 318/371-3050]; [District 2 C 368 Century Park Drive, Monroe, 71203; 318/343-4044]; [District 3 C 1995 Shreveport Hwy., Pineville, 71360; 318/487-5885]; [District 4 C P.O. Box 1640, Ferriday, 71334; 318/757-4571]; [District 5 C 1213 N. Lakeshore Dr., Lake Charles, 70601; 318/491-2575]; [District 6 C 5652 Highway 182, Opelousas, 70570; 318/948-0255]; [District 7 C P.O. Box 98000, Baton Rouge, 70898; 225/765-2360].

C. Wildlife Management Area Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	March 31-April 1	Self-clearing	March 31-April 1
Bens Creek ¹	March 24-April 15	Self-clearing	None
Big Lake	March 24-April 1	Self-clearing	None
Bodcau	March 31-April 15	Self-clearing	None
Boeuf	March 24-April 1	Self-clearing	None
Boise Vernon	March 24-April 15	Self-clearing	None
Camp Beauregard	March 24-April 8	Self-clearing	None
Dewey Wills	March 24-25, March 31-April 1	Self-clearing	March 24-25, March 31-April 1
Fort Polk	March 24-April 22	Self-clearing	None
Georgia-Pacific	March 31-April 8	Self-clearing	March 31-April 1
Grassy Lake	March 24-April 1	Self-clearing	None

Jackson-Bienville	March 31-April 15	Self-clearing	None
Little River	March 24-April 8	Self-clearing	None
Loggy Bayou	April 7-8, April 14-15	Self-clearing	April 7-8 (Youth Hunt), April 14-15
Pearl River	March 24-April 15	Self-clearing	None
Peason Ridge	March 24-April 22	Self-clearing	None
Pomme de Terre	March 24-April 1	Self-clearing	None
Red River	March 24-April 1	Self-clearing	None
Sabine	March 24-25, March 31-April 1	Self-clearing	March 24-25, March 31-April 1
Sandy Hollow	March 24-April 15	Self-clearing	None
Sherburne ²	March 24-April 1	Self-clearing	March 24-25, March 26-28
Sicity Island	March 24-25, March 31-April 1, April 7-8, April 14-15	Self-clearing	March 24-25, March 31-April 1, April 7-8, April 14-15
Three Rivers	March 24-April 1	Self-clearing	None
Tunica Hills Angola Tract ³	March 24-25, March 31-April 1, April 7-8, April 14-15	Self-clearing	March 24-25, March 31-April 1, April 7-8, April 14-15
Tunica Hills South Tract	March 24-25, March 31-April 1, April 7-8, April 14-15	Self-clearing	March 24-25, March 31-April 1, April 7-8, April 14-15
Union	March 31-April 1	Self-clearing	March 31-April 1
West Bay	March 24-25	Self-clearing	March 24-25

*The deadline for receiving applications for all turkey Lottery Hunts on WMAs is Feb. 15, 2001.

¹No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

²All turkeys harvested on Sherburne WMA must be weighed and checked at WMA headquarters.

³Scouting access limited. Contact Region 7 office for details (225) 765-2360.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:2265 (November 1999), amended LR 26:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the

filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondences to other agencies of government.

Additionally, interested persons may submit written comments relative to the proposed rule until September 21, 2000 to Mr. Tommy Prickett, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898.

In accordance with Act Number 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES :
Turkey SeasonC 2001**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of hunting regulations is an annual process. The cost of implementing the proposed rules to the state, aside from staff time, is the production of the turkey regulation pamphlets and the issuance of turkey stamps which are estimated to cost \$17,600. The state agency currently has sufficient funds to implement the proposed action and no implementation costs or savings will be incurred by local governmental units resulting from the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

License revenue from the sale of the turkey stamps is estimated to be \$55,970. Failure to adopt this rule would result in no turkey hunting seasons being established and loss of state revenues from sale of turkey stamps. In addition, loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the sale of supplies and equipment used in the pursuit of turkeys.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Approximately 10,000 resident and non-resident sportsmen and an undeterminable amount of sporting good distributors, retail outlets and landowners are directly affected by this proposal. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial operations that cater to the hunting public through hunting leases and the sale of outdoor related equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if turkey hunting seasons, rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Both resident and non-resident turkey hunters will incur an additional cost of \$5.50 and \$10.50, respectively, from the required purchase of a wild turkey stamp.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

Hunting supports approximately 15,271 full and part time jobs in Louisiana of which a proportion is directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is also anticipated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

Thomas M. Gattle, Jr.
Chairman
0007#044

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY - JUNE 2000

LAC Title	Part.Section	Effect	Location LR 26 Month Page	LAC Title	Part.Section	Effect	Location LR 26 Month Page
4	III.Chapter 1	Amended	May 1025	33	I.1305 and 1307	Amended	June 1264
	VII.1121-1143	Amended	Jan 70		III.207, 209, 211, 223	Amended	Feb 263
	VII.1271-1275	Amended	Jan 79		III.207, 209, 211, 223	Repromulgated	Mar 484
7	XIII.143, 147	Amended	Feb 235	III.223, 1951-1973	Amended	Mar 485	
	XXIX.102, 117, and 121	Amended	April 627	III.5122	Amended	April 690	
	XXXIX.111	Repealed	Jan 25	III.613, 615	Amended	Mar 486	
	XXXIX.111	Adopted	Jan 25	III.5901	Amended	Jan 69	
10	XV.505	Adopted	May 990	V.Chapters 1,3,5,15,17,22	Amended	Feb 267	
	XVII.701	Adopted	Feb 236	V.Chapters 26,33,38,41,43	Amended	Feb 267	
13	I.Chapter 3	Amended	April 630	IX.Chapter 1	Adopted	Jan 33	
	I.Chapter 9	Amended	April 631	IX.1701	Amended	June 1270	
	III.Chapter 1	Amended	Feb 236	XV.325, 342 and 478	Amended	May 1017	
	III.Chapter 3	Amended	Feb 241	XV.Chapter 15	Amended	June 1264	
	III.Chapter 5	Amended	Feb 239	34	III.Chapter 5	Amended	May 1020
	III.Chapter 13	Repealed	April 629		35	XIII.Chapter 119	Adopted
22	I.Chapter 2	Adopted	June 1310	37		XI.Chapter 23	Adopted
	I.203	Amended	April 1308		XIII.8705, 8709	Amended	Jan 86
	I.317	Repealed	Jun 1313	XIII.8713-8717 and 8721	Amended	Jan 86	
	I.317	Adopted	June 1313	XIII.8723, 8725 and 8727	Adopted	Jan 86	
	I.337	Amended	Feb 332	XIII.8729 and 8731	Amended	Jan 86	
	I.Chapter 21	Adopted	Feb 331	XIII.Chapter 89	Adopted	June 1300	
	III.Chapter 57	Adopted	May 1018	XIII.Chapter 90	Adopted	Mar 500	
	V.109	Amended	Jan 88	XIII.Chapter 91	Adopted	Feb 324	
	XIII.503	Amended	May 1019	42	II.Chapters 1 and 2	Adopted	Mar 502
	25	IX.303-310, 312, 330, 331,	Amended		Jan 25	III.119, 120	Adopted
IX.501-507		Amended	Jan 25		VII.Chapter 17, 21-29 and 42	Adopted	April 728
28	I.901	Amended	June 1260		VII.2325	Adopted	June 1324
	I.901	Amended	June 1260		IX.2405	Amended	Feb 339
	I.901	Amended	Feb 224		IX.2919-2924	Adopted	Feb 335
	I.901	Amended	April 635		XI.2415	Amended	June 1321
	I.901	Amended	April 635		XIII.2331	Adopted	Feb 339
	I.901	Amended	April 638		XIII.2724, 2737, 2744,	Repealed	Feb 334
	I.901	Amended	Mar 458		XIII.2745, 2747	Repealed	Feb 334
	I.901	Amended	Feb 246	XIII.4001-4013	Adopted	Feb 335	
	I.901	Amended	Feb 246	XIII.Chapter 42	Adopted	April 716	
	I.901	Amended	Feb 247	XV.Chapter 1	Amended	April 703	
	I.901, 902	Amended	Mar 458	XV.Chapter 3	Repromulgated	April 705	
	I.901, 903	Amended	Jan 62	XV.Chapter 5	Repromulgated	April 709	
	I.903	Amended	Jan 62	XV.Chapter 7	Repromulgated	April 699	
	I.903	Amended	Mar 459	XV.Chapter 9	Amended	April 703	
	I.904	Amended	Mar 459	43	V.Chapters 1 and 3	Adopted	May 1060
	I.921	Amended	Feb 249		XIX.104	Amended	June 1306
	V.109	Amended	Mar 484	46	I.Chapter 19	Adopted	May 988
	IV.301, 701	Amended	June 1262		I.Chapter 19	Repealed	May 988
	IV.703	Amended	June 1263		XXV.Chapters 1-7	Adopted	Feb 295
	IV.2109	Amended	June 1261		XXXIII.103, 1508, 1603, 1611	Amended	Mar 488
	IV.103, 301	Amended	Jan 65		XXXIII.1613, 1617	Amended	Mar 488
	IV.701-705	Amended	Jan 65		XLIX.1103	Amended	Feb 316
	IV.703	Amended	April 689		LIII.Chapter 12	Adopted	April 1271
	IV.703, 803	Amended	Jan 64		LV.101, 303, 307, 801, 901	Amended	Feb 328
	IV.803, 805	Amended	Jan 65		LV.309	Amended	Feb 327
	IV.901, 909, 911	Amended	Jan 69		LV.311	Amended	Feb 328
	IV.903	Amended	Jan 65		LVII.927	Adopted	April 1307
	IV.1701	Amended	Jan 65		LIX.101-107, 201, 301, 401-409	Amended	May 1067
	IV.2101	Amended	Jan 65		LIX.501, 601, 603, 701, 801-813	Amended	May 1067
	IV.2103	Amended	May 1015		LIX.901-907	Amended	May 1067
XXV.303	Amended	April 635	LX.111, 503, 705, 801, 803		Amended	Mar 493	
XXXIII.Chapter 1-3	Amended	May 991	LX.1305, 1325, 2107		Amended	Mar 493	
XXXIX.307	Amended	Jan 64	LXVII.Chapters 1-69	Repealed	Jan 37		
XLIII.Chapters 1-10	Adopted	April 639	LXVII.Chapters 1-69	Adopted	Jan 37		
XLV.Chapters 1-11	Adopted	Mar 461	LXXXVI.Chapter 1	Adopted	May 1064		
32	III.317, 701	Amended	Mar 488	LXXXV.305	Amended	Feb 322	
	V.317, 701	Amended	Mar 487	LXXXV.704	Amended	Feb 317	
				LXXXV.Chapter 12	Amended	Feb 317	

LAC Title	Part.Section	Effect	Location LR 26 Month Page	LAC Title	Part.Section	Effect	Location LR 26 Month Page
	XXXIII.301	Amended	April 690		V.1503	Amended	Feb 290
	XXXIII.306	Amended	April 692		V.1505	Amended	Feb 291
	XXXIII.415	Amended	April 692		V.1507	Amended	Feb 294
	XXXIII.506	Repealed	April 691		V.1509	Amended	Feb 294
	XXXIII.706	Amended	April 692				
	XLVII.3335	Amended	Jan 83	61	I.4909	Adopted	Jan 95
	XLVII.3341	Amended	Jan 83		V.101, 303, 703, 907, 1103, 1305	Amended	Mar 506
	XLVII.3505	Amended	Jan 83		V.1307, 1503, 2503, 2703-2707	Amended	Mar 506
	XLIX.1103	Repromulgated	Jan 82		V.3101-3105, 3501	Amended	Mar 506
	XLV.6915-6923	Amended	April 693				
	XLIX.307	Amended	April 692	67	III.301, 307, 309	Amended	Feb 350
	LXXXV.809, 811	Amended	Jan 84		III.1203, 1209, 1247	Amended	Feb 349
	LXXXV.Chapter 15	Adopted	Mar 489		III.1223, 1225 and 1229	Amended	June 1342
48	I.3991	Adopted	May 1058		III.1987	Amended	Feb 349
	V.11709	Adopted	April 1298		III.2509	Amended	Feb 356
52	I.610, 1012, 1202, 1204, 1309	Adopted	April 627		III.2907, 2909 and 2913	Amended	June 1342
	I.1310, 1604, 1903 and 1905	Adopted	April 627		III.2521	Amended	June 1344
55	I.301	Amended	Jan 95		III.Chapter 53	Adopted	Feb 351
	I.1903, 1907, 1909, 1917, 1921	Amended	Feb 347		V.1103	Amended	April 790
	I.1933, 1939, 1941, 1945,	Amended	Feb 347		V.1105	Adopted	Jan 96
	I.1949, 1969	Amended	Feb 347	70	V.3503	Amended	June 1341
	I.Chapter 15	Amended	Jan 90	73	I.513	Amended	Jan 97
	I.Chapter 21	Adopted	Jan 92		III.301	Amended	Feb 357
	III.325, 327	Adopted	Jan 89		III.Chapter 27	Adopted	April 790
	III.1777, 1781	Amended	Jan 88	76	I.327	Amended	May 1078
	V.1305	Adopted	Feb 294		VII.149	Amended	Jan 97
	V.Chapter 30	Amended	June 1324		VII.193	Adopted	Jan 98
58	V.1501	Amended	Feb 290		VII.335	Amended	April 792
					VII.345	Amended	Mar 513

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Office of the Governor Division of Administration Property Assistance Agency

Items of Property to be Inventoried
(LAC 34:I.307)

Interested persons may submit written comments concerning the proposed amendment to LAC34:VII.307, published in the June, 2000 State Register, until 5 p.m., August 18, 2000, to Irene Babin, Director, Louisiana Property Assistance Agency, P.O. Box 94095, Baton Rouge, LA 70804-9095

Irene C. Babin
Director

0007#102

POTPOURRI

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, September 9, 2000, at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

0007#012

POTPOURRI

Department of Health and Hospitals Office the Secretary Office of Management and Finance

Inpatient Psychiatric Services
Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule June 20, 1993 which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). The June 20, 1993 rule was subsequently

amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5). As a result of a budgetary shortfall, the Bureau adopted a rule to reduce the Medicaid prospective per diem rates for inpatient psychiatric services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau has decided to restore the 7 percent reduction previously made to the prospective per diem rates for inpatient psychiatric services. Taking into consideration the restoration of the 7 percent reduction to per diem rates in state fiscal year 2000, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care. These proposed rates are considered to be sufficient to enlist enough providers so that inpatient psychiatric services under the state plan are available at least to the extent that they are available to the general population in the state.

Effective for dates of service on or after July 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt an emergency rule to restore the 7 percent reduction previously made to the reimbursement rates for inpatient psychiatric services. It is estimated that implementation of this emergency rule will increase expenditures for the inpatient psychiatric services by approximately \$1,937,850 for state fiscal year 2000-2001.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this public notice. The deadline for receipt of all written comments is August 8, 2000 by 4:30 p.m. A copy of this public notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0007#055

POTPOURRI

Department of Health and Hospitals Office of the Secretary Office of Management and Finance

Long-Term Hospitals CReimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June 20, 1994 which established the reimbursement methodology for inpatient hospital services, including long-term acute hospitals under the specialty hospital peer groups (*Louisiana Register*, Volume 20, Number 6). Another rule

was subsequently adopted to adjust the peer group rate payment to the lowest blended per diem rate for each specialty hospital category without otherwise changing the methodology (*Louisiana Register*, Volume 22, Number 1). The reimbursement methodology for psychiatric treatment was later disjoined from the methodology for other types of services in a long-term acute hospitals in order to reimburse these services at the same prospective per diem rate established for psychiatric treatment facilities (*Louisiana Register*, Volume 23, Number 2). The June 20, 1994 rule was subsequently amended to restructure the prospective reimbursement methodology for inpatient services provided in long-term acute hospitals (*Louisiana Register*, Volume 23, Number 12). As a result of a budgetary shortfall, the Bureau adopted a rule to reduce Medicaid prospective per diem rates for inpatient long term hospital services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the legislature during the 2000 second special session, the bureau has decided to restore the seven percent reduction previously made to the prospective per diem rates for inpatient long term hospital services. Taking into consideration the restoration of the 7 percent reduction to per diem rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care. These proposed rates are considered to be sufficient to enlist enough providers so that long term hospital services under the state plan are available at least to the extent that they are available to the general population in the state.

Effective for dates of service on or after July 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt an emergency rule to restore the 7 percent reduction previously made to the reimbursement rates for long term hospitals. It is estimated that the implementation of this Emergency Rule will increase expenditures to long term hospitals by approximately \$544,763 for state fiscal year 2000-2001.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this public notice. The deadline for receipt of all written comments is August 8, 2000 by 4:30 p.m. A copy of this public notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0007#054

POTPOURRI

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

Hospital Program Outpatient Laboratory Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a

rule in April of 1997 that established a uniform reimbursement methodology for all laboratory services subject to the Medicare Fee Schedule regardless of the setting in which the services are performed, outpatient hospital or a non-hospital setting. Outpatient laboratory services are reimbursed at the same reimbursement rate as laboratory services performed in non-hospital setting (*Louisiana Register*, Volume 23, Number 4). As a result of a budgetary shortfall, the bureau adopted a rule to reduce the reimbursement rates for outpatient hospital laboratory services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the legislature during the 2000 second special session, the bureau has decided to restore the seven percent reduction previously made to the reimbursement rates for outpatient laboratory services. Taking into consideration the restoration of the seven percent reduction to reimbursement rates in state fiscal year 2000, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care. These proposed rates are considered to be sufficient to enlist enough providers so that outpatient laboratory services under the state plan are available at least to the extent that they are available to the general population in the state.

Effective for dates of service on or after July 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt an Emergency Rule to restore the 7 percent reduction previously made to the reimbursement rates for outpatient hospital laboratory services. It is estimated that implementation of this emergency rule will increase expenditures for outpatient hospital laboratory services by approximately \$533,462 for state fiscal year 2000-2001.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this public notice. The deadline for receipt of all written comments is August 8, 2000 by 4:30 p.m. A copy of this public notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0007#053

POTPOURRI

**Department of Health and Hospitals
Office of Management and Finance**

Hospital Program
Outpatient Rehabilitation Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1997 which established a uniform reimbursement methodology for all rehabilitation services regardless of the setting in which the services are performed, outpatient hospital or a free-standing rehabilitation center

(*Louisiana Register*, Volume 23, Number 6). Rehabilitation services include physical, occupational, speech, hearing, and language therapies. As a result of a budgetary shortfall, the bureau adopted a Rule to reduce the reimbursement rates for outpatient hospital rehabilitation services by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the legislature during the 2000 second special session, the bureau has decided to restore the 7 percent reduction previously made to the prospective per diem rates for outpatient hospital rehabilitation services. Taking into consideration the restoration of the 7 percent reduction to reimbursement rates in state fiscal year 2000, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care. These proposed rates are considered to be sufficient to enlist enough providers so that outpatient hospital rehabilitation services under the state plan are available at least to the extent that they are available to the general population in the state.

Effective for dates of service on or after July 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt an emergency rule to restore the 7 percent reduction previously made to the reimbursement rates for outpatient hospital rehabilitation services. It is estimated that implementation of this Emergency Rule will increase expenditures for outpatient hospital rehabilitation services by approximately \$140,508 for state fiscal year 2000-2001.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this public notice. The deadline for receipt of all written comments is August 8, 2000 by 4:30 p.m. A copy of this public notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0007#082

POTPOURRI

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

Private Hospitals CReimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended in a Rule adopted in January of 1996 which established a weighted average per diem for each hospital peer group (*Louisiana Register*, Volume 22, Number 1). The January 1996 rule was amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those

years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5). As a result of a budgetary shortfall, the bureau adopted a rule to reduce the prospective per diem rates to private (non-state) acute care hospitals by seven percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 second special session, the bureau has decided to restore the 7 percent reduction previously made to the prospective per diem rates for private (non-state) acute care hospitals. This action is necessary to protect the health and welfare of recipients by ensuring the availability of providers to participate in the Medicaid program. Taking into consideration the restoration of the 7 percent reduction to per diem rates in state fiscal year 2000, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care. These proposed rates are considered to be sufficient to enlist enough providers so that private hospital services under the state plan are available at least to the extent that they are available to the general population in the state.

Effective for dates of service on or after July 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt an Emergency Rule to restore the 7 percent reduction previously made to the prospective per diem rates for private hospitals. It is estimated that implementation of this Emergency Rule will increase expenditures to private hospitals for inpatient services by approximately \$14,418,039 for state fiscal year 2000-2001.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this public notice. The deadline for receipt of all written comments is August 8, 2000 by 4:30 p.m. A copy of this public notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0007#057

POTPOURRI

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

Private Intermediate Care Facilities for the
Mentally Retarded CReimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule on October 20, 1989 which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (ICF-MR) (*Louisiana Register*, Volume 15, Number 10). The October 20, 1989 Rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not

rebased (*Louisiana Register*, Volume 25, Number 6). As a result of a budgetary shortfall, the bureau adopted a rule to reduce the Medicaid prospective per diem rates for private ICFs-MR by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 second special session, the bureau has decided to restore the 7 percent reduction previously made to the prospective per diem rates for private intermediate care facilities for the mentally retarded. Taking into consideration the restoration of the 7 percent reduction to per diem rates in state fiscal year 2000, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care. These proposed rates are considered to be sufficient to enlist enough providers so that private ICF-MR services under the state plan are available at least to the extent that they are available to the general population in the state.

Effective for dates of service on or after July 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt an emergency rule to restore the 7 percent reduction previously made to the reimbursement for private intermediate care facilities for the mentally retarded. It is estimated that implementation of this Emergency Rule will increase expenditures to the private ICFs-MR by approximately \$9,253,827 for state fiscal year 2000-2001.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this public notice. The deadline for receipt of all written comments is August 8, 2000 by 4:30 p.m. A copy of this public notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0007#056

POTPOURRI

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

**Private Nursing Facilities
Reimbursement Methodology**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1984 which established the reimbursement methodology for private nursing facilities (*Louisiana Register*, Volume 10, Number 6). The June 20, 1984 rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 6). As a result of a budgetary shortfall, the bureau adopted a rule to reduce the Medicaid prospective per diem rates for private

nursing facilities by 7 percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 second special session, the bureau has decided to restore the 7 percent reduction previously made to the prospective per diem rates for private nursing facilities. Taking into consideration the restoration of the 7 percent reduction to per diem rates in state fiscal year 2000, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care. These proposed rates are considered to be sufficient to enlist enough providers so that private nursing facility services under the state plan are available at least to the extent that they are available to the general population in the state.

Effective for dates of service on or after July 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt an emergency rule to restore the 7 percent reduction previously made to the reimbursement rates for private nursing facilities. It is estimated that implementation of this Emergency Rule will increase expenditures to the private nursing facilities by approximately \$41,067,024 for state fiscal year 2000-2001.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this public notice. The deadline for receipt of all written comments is August 8, 2000 by 4:30 p.m. A copy of this public notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0007#100

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Atlas Oil Company	Elm Grove	S	Caplis	001	000274
Ben-Tex Oil Corp.	Caddo Pine Island	S	Herndon	1A	051551
Blue Mill Farms, Inc.	Bayou Choctaw	L	E B Schwing SL 2249 B	002	047654
H. D. Burlew, Jr.	Tullos-Urania	M	Urania Lbr Co	001	122667
Chain Oil & Gas, Inc.	Lake Washington	L	I 7 RB SUA:SL 13545	002	168011
Chain Oil & Gas, Inc.	Lake Washington	L	I 7 RA SUA:SL 13545	001	164563

Chain Oil & Gas, Inc.	Longville	L	Long Bell Petroleum Company	001	188550
Chain Oil & Gas, Inc.	Longville	L	Long Bell Petroleum Company	002	191092
W. D. Chew	Caddo Pine Island	S	State of LA	001	007897
W. D. & Carrie Cole Chew	Caddo Pine Island	S	State of LA	003	008942
Dal-Long Oil Company	East Haynesville	S	Dalaney et al 20-2 SWD	001	177583
Dal-Long Oil Company	Carterville	S	VUA:Boucher	001	202235
Dal-Long Oil Company	Carterville	S	Dewey Payne	002	204832
Dal-Long Oil Company	Carterville	S	Boucher	002	206325
Dal-Long Oil Company	Carterville	S	Boucher SWD	001	971867
B. M. Hester	Westwego	L	Missouri Pacific RR	001	087978
Interstate Natural Gas Co. Inc.	Coffee Bay	L	Grandison	003	050797
Jones Operating Co., Inc.	Caddo Pine Island	S	Glassell	001	213975
Jones Operating Co., Inc.	Caddo Pine Island	S	Glassell	002	214249
La. Mining & Minerals, Inc.	Lake Washington	L	LW 950 RA NVU;LL&E Fee	009	151430
La. Mining & Minerals, Inc.	Lake Washington	L	LW 950 RA NVU;LL&E Fee	011	151515
La. Mining & Minerals, Inc.	Lake Washington	L	LW 950 RA NVU;LL&E Fee	008	151359
La. Mining & Minerals, Inc.	Lake Washington	L	LW 1200 RA NVU;LL&E Fee	001	148405
La. Mining & Minerals, Inc.	Lake Washington	L	LW 950 RA NVU;LL&E Fee	007	150414
La. Mining & Minerals, Inc.	Lake Washington	L	LW 750 RA NVU;LL&E Fee	006	150314
La. Mining & Minerals, Inc.	Lake Washington	L	LW 950 RA NVU;LL&E Fee	004	148532
La. Mining & Minerals, Inc.	Lake Washington	L	LW 950 RA NVU;LL&E Fee	005	150199
La. Mining & Minerals, Inc.	Point Au Fer	L	LL&E etal	001	215320
La. Mining & Minerals, Inc.	Avery Island	L	Avery Island Inc	001	215672

La. Mining & Minerals, Inc.	Avery Island	L	Avery Island Inc	002	218756
La. Oil Ref. Corp.	Caddo Pine Island	S	E B Grant	043	005939
La. Oil Ref. Corp.	Caddo Pine Island	S	E B Grant	045	005940
L & R Petroleum	Sligo	S	ROD RA SUP;Welch A	001	208484
L & R Petroleum	Sligo	S	ROD RA SUD;Welch	001	180252
L & R Petroleum	Sligo	S	HOSS 2 SUL; Skannal	002	207501
L & R Petroleum	Sligo	S	ROD RA SUG;Lucky	001	182280
L & R Petroleum	Sligo	S	Welch SWD	003	183639
Glen D. Loe	Tullos-Urania	M	Urania Lbr Co	004	041124
W. A. Lusk	Big Creek	M	McDonald Hunter	001	178694
M. W. Maxwell	Tullos-Urania	M	Griswold Heirs etal	003	138190
Pagitt Well Service, Inc.	Port Barre	L	Haas-Hirsch	001	018208
Petro-Lewis Corp.	Lake Enfermer	L	LE SUA;Grandison A	001	054836
Petro-Lewis Corp.	Lake Enfermer	L	LE SUG; Grandison A	006	065534
Petro-Lewis Corp.	Coffee Bay	L	CB SUH: Grandisoin	010	075935
Petro-Lewis Corp.	Coffee Bay	L	CB SUG; Grandison	007	072046
Petro-Lewis Corp.	Coffee Bay	L	CB SUU: Grandison A	007	072830
Hal S. Phillips	Wildcat	L	W Alton Jones	001	092495
Southwest Rig Service	Washington	L	Marion Lester Woods et al	001	178497

Philip N. Asproditis
Commissioner

0007#096

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 five claims in the amount of \$10,107.84 were received for payment during the period June 1, 2000 - June 30, 2000. There were four claims paid and one claim denied.

Loran Coordinates of reported underwater obstructions are:

28171	46937	Terrebonne
28659	46854	Jefferson

A list of claimants and amounts paid, can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 94396, Baton Rouge, LA 70804, or you can call (225)342-0122.

Jack C. Caldwell
Secretary

0007#037

POTPOURRI

**Department of Social Services
Office of Family Support**

Food Stamp Program Vehicle Exclusion Policy

The Department of Social Services, Office of Family Support, has requested and received approval to waive the federal food stamp program regulation at

7 CFR 273.8(e)(18) that prohibits application of the inaccessible resource provision to vehicles (FNS Waiver No. 002006).

Therefore, effective August 1, 2000, the definition of an inaccessible resource in LAC 67:III.1949 will be expanded in food stamp policy to allow exclusion of a vehicle that the household is unable to sell for any significant return because the household's interest is relatively slight or the costs of selling the household's interest would be great.

This action helps households that need transportation to achieve self-sufficiency without sacrificing nutritional needs. It eliminates a barrier to participation in the food stamp program and allows households to have access to transportation necessary to secure and retain employment.

J. Renea Austin-Duffin
Secretary

0007#101

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STEAMSHIP PILOT COMMISSION**

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