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EXECUTIVE ORDER MJF 98-65

Roadside Rest Area Task Force

WHEREAS: Louisiana's citizens, tourists and travelers expect the state of Louisiana to provide well maintained roadside rest areas to accommodate their traveling needs;

WHEREAS: the state of Louisiana, through the Department of Transportation and Development, maintains thirty-four (34) roadside rest areas, ten (10) of which are adjacent to tourist information centers;

WHEREAS: in recent years, the roadside rest areas in many of Louisiana's neighboring states appear to have become a part of the tourism infrastructures of those states; in contrast, in recent years many of Louisiana's roadside rest areas have fallen into disrepair; and

WHEREAS: the interests of the citizens of the state of Louisiana would best be served by the creation of a task force charged with the duty of evaluating the condition of Louisiana's roadside rest areas, comparing Louisiana's roadside rest areas to those of neighboring states, and recommending to the governor effective and efficient means to revitalize and maintain Louisiana's roadside rest areas;

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 Roadside Rest Area Task Force (hereafter "Task Force") is established within the executive department, Office of the Governor.

SECTION 2: The duties of the Task Force shall include, but are not limited to, the following:

A. evaluating the present condition of Louisiana's thirty-four (34) roadside rest areas, the services available at those roadside rest areas, and the manner in which those roadside rest areas are designed, maintained, and patrolled;

B. analyzing, through reports and otherwise, the condition of roadside rest areas in neighboring states, the services available at those roadside rest areas, and the manner in which those roadside rest areas are designed, maintained, and patrolled;

C. making a comparative analysis between Louisiana's roadside rest areas and those of neighboring states;

D. evaluating alternatives, including those set forth in a plan for roadside rest area improvement submitted by the Department of Transportation and Development, for maintaining, repairing, revitalizing, and constructing Louisiana's roadside rest areas in an effective and efficient manner; and

E. preparing recommendations for a cost effective and efficient revitalization of Louisiana's roadside rest areas.

SECTION 3: The Task Force shall submit to the governor a comprehensive written report which addresses the issues set forth in Section 2 by March 1, 1999.

SECTION 4: The Task Force shall be composed of eleven

(11) members appointed by, and serving at the pleasure of, the governor selected as follows:

A. the governor, or the governor's designee;
B. the lieutenant governor, or the lieutenant governor's designee;

C. the secretary of the Department of Transportation and Development, or the secretary's designee;

D. the secretary of the Department of Culture, Recreation and Tourism, or the secretary's designee;

E. one (1) member of the House Committee on Transportation, Highways and Public Works selected by the speaker of the House of Representatives;

F. one (1) member of the Senate Committee on Transportation, Highways and Public Works selected by the president of the Senate;

G. a representative of the Louisiana Motor Transport Association;

H. a representative of the Louisiana Restaurant Association;

I. a representative of the Federal Highway Administration;

J. a representative of the Louisiana Good Roads Association; and

K. a representative of Louisiana's tourism industry.

SECTION 5: The governor shall select the chair of the Task Force from its membership. All other officers shall be elected by the membership of the Task Force.

SECTION 6: The Task Force shall meet once a month and at the call of the chair.

SECTION 7: Support staff for the Task Force and facilities for its meetings shall be provided by the Department of Transportation and Development.

SECTION 8: The members of the Task Force shall not receive additional compensation, a per diem, or travel expenses from the Office of the Governor.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Task Force in implementing the provision of this Order.

SECTION 10: This Order is effective upon signature and shall continue 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 10th day of December, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9901#019

EXECUTIVE ORDER MJF 98-66

Louisiana Stadium and Exposition District Authorization for Series 1998 Bonds

WHEREAS: the Louisiana Stadium and Exposition District (hereafter "LSED") was originally created as a body politic and corporate of the state of Louisiana (hereafter "State"), composed of all of the territory in the parishes of Orleans and Jefferson, for the purpose of planning, financing, constructing, developing, maintaining, and operating facilities to be located within the LSED to accommodate the holding of sports events, athletic contests, and other events of public interest under the authority of Article XIV, Section 47 of the Louisiana Constitution of 1921, as amended and continued as a statute by Article XIV, Section 16 of the Louisiana Constitution of 1974, as amended (hereafter "Original Act");

WHEREAS: the LSED issued its Hotel Occupancy Tax and State Lease-Rental Refunding Bonds, Series 1976, in the original principal amount of \$134,000,000 (hereafter "Series 1976 Bonds"), pursuant to the Original Act and a resolution adopted by Board of Commissioners of Louisiana Stadium and Exposition District (hereafter "Board") on February 21, 1969, as amended by resolutions adopted by the Board on August 27, 1970, October 12, 1971, and October 28, 1976, and a series resolution adopted by the Board on October 28, 1976 (hereafter, collectively, "Series 1976 Resolution"), for the purpose of refunding all of the LSED's outstanding bonds which were issued to finance the acquisition of land for and the development and construction of the Louisiana Superdome and its parking and related facilities, which Series 1976 Bonds were payable from the Revenues (as defined in the Series 1976 Resolution) and the proceeds of the Hotel Occupancy Tax (as defined in the Series 1976 Resolution);

WHEREAS: pursuant to the provisions of Act Number 541 of the 1976 Regular Session of the Legislature, as amended by Act Number 499 of the 1978 Regular Session of the Legislature, Act Number 449 of the 1980 Regular Session of the Legislature, Act Number 927 of the 1981 Regular Session of the Legislature, Act Number 476 of the 1984 Regular Session of the Legislature, Act Number 259 of the 1989 Regular Session of the Legislature, and Act Number 640 of the 1993 Regular Session of the Legislature, which modified and supplemented the Original Act, (hereafter, collectively, "Act"), the LSED was authorized to issue not exceeding \$60,000,000 of refunding bonds to refund all of the LSED's outstanding Series 1976 Bonds and not exceeding \$155,000,000 of improvement and construction bonds to finance the projects set forth in the Act (hereafter "Projects") upon compliance with the conditions prescribed by the Act;

WHEREAS: pursuant to the Act and a general bond resolution adopted by the Board on January 31, 1994 (hereafter "General Bond Resolution"), as amended and supplemented by a first supplemental resolution adopted by the Board on March 28, 1994 (hereafter "First Supplemental Resolution"), the LSED issued \$63,500,000 of its Hotel Occupancy Tax Bonds, Series 1994-A (hereafter "Series 1994-A Bonds"), for the purpose of refunding the LSED's outstanding Series 1976 Bonds, funding a deposit to the

Reserve Fund (as defined in the General Bond Resolution), paying the costs of preparing plans and specification for the Projects, including architects and engineers fees and expenses, design consultants fees and expenses, costs and expenses of feasibility studies of the Projects, site acquisitions for ingress and egress purposes and site preparations for the Projects, other incidental costs, and Costs of Issuance of the Bonds (as defined in the General Bond Resolution), including the purchase of the Reserve Fund Insurance Policy, and paying the premium for the Bond Insurance Policy;

WHEREAS: pursuant to the Act and the General Bond Resolution, as amended and supplemented by the First Supplemental Resolution and a second supplemental resolution adopted by the Board on April 21, 1995 (hereafter "Second Supplemental Resolution"), the LSED issued \$14,500,000 of its Hotel Occupancy Tax Bonds, Series 1995-A (hereafter "Series 1995-A Bonds"), for the purpose of acquiring and installing a new artificial turf surface in the Louisiana Superdome, acquiring and installing replacement seats in the terrace section and additional seats in certain other sections of the Louisiana Superdome, and acquiring land and constructing a professional football training facility in the parish of Jefferson;

WHEREAS: pursuant to the Act and the General Bond Resolution, as amended and supplemented by the First Supplemental Resolution, Second Supplemental Resolution and a third supplemental resolution adopted by the Board on November 10, 1995 (hereafter "Third Supplemental Resolution"), the LSED issued \$48,000,000 of its Hotel Occupancy Tax Bonds, Series 1995-B (hereafter "Series 1995-B Bonds"), for the purpose of

A. paying the Costs of Construction (as defined in the Third Supplemental Resolution) of:

1. a baseball stadium to be located in the parish of Jefferson;
2. the remaining planned improvements and betterments to the Louisiana Superdome not financed by the Series 1995-A Bonds;
3. recreational facilities and other facilities to accommodate expositions, conventions, exhibitions, sports events, spectacles and public meetings at Bayou Segnette State Park;
4. an athletic facility addition to the Pontchartrain Center located in the parish of Jefferson;
5. recreational facilities in the cities of Gretna and Marrero in the parish of Jefferson; and
6. improvements to recreational facilities in the city of New Orleans;

B. paying costs of site preparation, providing utilities, acquiring rights-of-way and relocating utilities for a multi-purpose arena (hereafter "multi-sports arena") in the city of New Orleans; and

C. paying costs of issuance of the Series 1995-B Bonds, including the purchase of a Reserve Fund Insurance Policy and paying the premium for a Bond Insurance Policy, and funding a deposit to the Reserve Fund (as defined in the General Bond Resolution);

WHEREAS: pursuant to the Act and the General Bond Resolution, as amended and supplemented by the First

Supplemental Resolution, Second Supplemental Resolution, Third Supplemental Resolution and a fourth supplemental resolution adopted by the Board on December 13, 1996 (hereafter "Fourth Supplemental Resolution"), the LSED issued \$76,240,000 of its Hotel Occupancy Tax Bonds, Series 1996 (hereafter "Series 1996 Bonds"), for the purpose of paying the Costs of Construction (as defined in the Fourth Supplemental Resolution) of a multi-sports arena in the city of New Orleans and paying costs of issuance of the Series 1996 Bonds, including the purchase of a Reserve Fund Insurance Policy and paying the premium for a Bond Insurance Policy, and funding a deposit to the Reserve Fund (as defined in the General Bond Resolution);

WHEREAS: pursuant to the Act, Chapter 14-A of Title 39 of the Louisiana Revised Statutes of 1950, as amended, and the General Bond Resolution, as amended and supplemented by the First Supplemental Resolution, Second Supplemental Resolution, Third Supplemental Resolution, Fourth Supplemental Resolution, and a fifth supplemental resolution to be adopted by the Board on December 11, 1998 (hereafter, collectively, "Bond Resolution"), the LSED desires to issue not exceeding \$10,000,000 of its Taxable Hotel Occupancy Tax Refunding Bonds, Series 1998A (hereafter "Series 1998A Bonds") and not exceeding \$150,000,000 of its Hotel Occupancy Tax Refunding Bonds, Series 1998B (hereafter "Series 1998B Bonds" and, collectively with the Series 1998A Bonds, "Series 1998 Bonds"), for the purpose of (A) refunding a portion of its Series 1994-A Bonds, Series 1995-A Bonds, Series 1995-B Bonds, and Series 1996 Bonds and (B) paying costs of issuance of the Series 1998 Bonds, including paying the premium for a Bond Insurance Policy;

WHEREAS: refunding a portion of the LSED's outstanding Series 1994-A Bonds, Series 1995-A Bonds, Series 1995-B Bonds, and Series 1996 Bonds will result in interest cost savings for the LSED and will enable the LSED to have greater flexibility in granting concession contracts at the multi-sports arena to generate additional income;

WHEREAS: the Series 1998 Bonds will rank on a parity in all respects with the Series 1994-A Bonds, the Series 1995-A Bonds, the Series 1995-B Bonds, and the Series 1996 Bonds;

WHEREAS: the Act provides that for the purposes of and in connection with the undertakings authorized by the Act, including the issuance and servicing of any bonds, the LSED shall be acting solely in its capacity as a political subdivision of the State;

WHEREAS: the Series 1998 Bonds will not constitute an indebtedness, general or special, or a liability of the State or the parishes of Orleans and/or Jefferson (hereafter "Parishes"), will not be considered a debt of the State or the Parishes within the meaning of the Louisiana Constitution of 1974, as amended, or the laws of the State, and will not constitute a charge against the credit or taxing power of the State or Parishes, but are limited obligations of the LSED, which is obligated to pay the principal of, premium, if any, and interest

on the Series 1998 Bonds only from (A) the Tax Revenues (as defined in the Bond Resolution) derived from the collection of the Hotel Occupancy Tax (as defined in the Bond Resolution) being levied by the LSED pursuant to the Original Act and the Tax Ordinance (as defined in the Bond Resolution) and collected pursuant to the Collection Agreement (as defined in the Bond Resolution), and (B) other Funds and Accounts (as defined in the Bond Resolution) pledged pursuant to the Bond Resolution; and

WHEREAS: the Act requires that, prior to sale of bonds pursuant to the Act, an executive order of the governor approving the issuance of bonds shall have been filed with the LSED and the State Bond Commission;

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: Pursuant to the provisions of Act Number 541 of the 1976 Regular Session of the Legislature, as amended by Act Number 499 of the 1978 Regular Session of the Legislature, Act Number 449 of the 1980 Regular Session of the Legislature, Act Number 927 of the 1981 Regular Session of the Legislature, Act Number 476 of the 1984 Regular Session of the Legislature, Act Number 259 of the 1989 Regular Session of the Legislature, and Act Number 640 of the 1993 Regular Session of the Legislature, which modified and supplemented Article XIV, Section 47 of the Louisiana Constitution of 1921, as amended and continued as a statute by Article XIV, Section 16 of the Louisiana Constitution of 1974, as amended, and in accordance with the terms of a general bond resolution adopted by the Board of Commissioners of the Louisiana Stadium and Exposition District (hereafter "Board") on January 31, 1994, as amended and supplemented by a first supplemental resolution adopted by the Board on March 28, 1994, a second supplemental resolution adopted by the Board on April 21, 1995, a third supplemental resolution adopted by the Board on November 10, 1995, a fourth supplemental resolution adopted by the Board on December 13, 1996, and a fifth supplemental resolution to be adopted by the Board on December 11, 1998, regarding terms of sale, the Board, on behalf of the Louisiana Stadium and Exposition District, is authorized to issue not exceeding \$10,000,000 of its Taxable Hotel Occupancy Tax Refunding Bonds, Series 1998A, and not exceeding \$150,000,000 of its Hotel Occupancy Tax Refunding Bonds, Series 1998B, (collectively, "Series 1998 Bonds").

SECTION 2: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Board in implementing the provisions of this Order.

SECTION 3: 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 10th day of December, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9901#020

Louisiana, at the Capitol, in the city of Baton Rouge, on this 18th day of December, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9901#018

EXECUTIVE ORDER MJF 98-67

Mississippi River Corridor Task Force

WHEREAS: Executive Order Number MJF 98-1, signed on January 7, 1998, created the Mississippi River Corridor Task Force (hereafter "Task Force") and ordered the Task Force to submit a final report to the governor by January 31, 1999;

WHEREAS: Executive Order Number MJF 98-3, signed on January 22, 1998, amended Section 4 of Executive Order Number MJF 98-1 relative to the composition of the membership of the Task Force; and

WHEREAS: it is necessary to amend Executive Order Number MJF 98-1, as amended by Executive Order Number MJF 98-3, to extend both the term of the Task Force and its deadline for submitting a final report to the governor;

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: Section 3 of Executive Order Number MJF 98-1, as amended by Executive Order Number MJF 98-3, is amended to provide as follows:

The Task Force shall submit no less than two (2) written reports to the governor which address the issues set forth in Section 2. The Task Force shall provide a preliminary report by June 1, 1998, and a final, comprehensive report containing recommendations by September 30, 1999.

SECTION 2: Section 10 of Executive Order Number MJF 98-1, as amended by Executive Order Number MJF 98-3, is modified so as to be consistent with Section 4 of this Order.

SECTION 3: All other sections and subsections of Executive Order Number MJF 98-1, as amended by Executive Order Number MJF 98-3, shall remain in full force and effect.

SECTION 4: The provisions of this Order are effective upon signature and shall continue until its expiration on September 30, 1999, unless 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

EXECUTIVE ORDER MJF 98-68

Carryforward Bond Allocation—Louisiana
Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, 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 1998 (hereafter "the 1998 Ceiling");
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations.

WHEREAS, Executive Order Number MJF 98-60 (hereafter "MJF 98-60"), issued on October 28, 1998, allocated nine million fifty thousand (\$9,050,000) from the 1998 Ceiling to the Louisiana Housing Finance Agency for a single family mortgage revenue bond program, but the allocation was returned unused;

WHEREAS, subsection 4.8 of MJF 96-25 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, the governor may allocate the excess amount to issuers for use as a carryforward for one or more carryforward projects permitted under the Act by issuing an executive order;

WHEREAS, the 1998 Ceiling exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the calendar year by all issuers by nine million ninety five thousand two hundred (\$9,095,200); and

WHEREAS, the governor desires to allocate this excess and unused amount of the 1998 Ceiling as a carry forward for a carryforward project which is permitted and eligible under the Act;

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: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, and in accordance with the request for a carryforward

filed by the designated issuer, the excess and unused private activity bond volume limit under the 1998 Ceiling shall be and is hereby allocated to the designated issuer for the carryforward project and in the amount as follows:

Issuer	Carryforward Project	Carryforward Amount
Louisiana Housing Finance Agency	Single Family Mortgage Revenue Bond Program	\$9,095,200

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: 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 4: 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 the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of December, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9901#022

EXECUTIVE ORDER MJF 99-1

Executive Department—Hiring and Spending Freeze

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, Act 19 of the 1998 Regular 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/or limit expenditures on travel, professional services, supplies, acquisitions, and/or major repairs of the various agencies in the executive branch of state government (hereafter "spending freeze"); and

WHEREAS, to ensure that the state of Louisiana will not suffer a budget deficit from 1998-1999 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 the implementation of a hiring freeze throughout the executive branch of state government to achieve at least a state general fund dollar savings of thirteen million five hundred thousand dollars

(\$13,500,000.) and a spending freeze throughout the executive branch of state government to achieve even further state general fund dollar savings;

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:

A. Unless specifically exempted by a provision of this Order, no vacancy in an existing or new position of employment within the executive branch of state government, which exists on or occurs after January 8, 1999, shall be filled without the express written approval of the commissioner of administration.

B. Unless specifically exempted by a provision of this Order, no expenditure of funds shall be made within the executive branch of state government for travel, professional services, supplies, acquisitions, and/or major repairs, without the express written approval of the commissioner of administration.

SECTION 2:

A. The budget activities funded by Act 19 of the 1998 Regular Session of the Louisiana Legislature (hereafter "Act 19") which are exempt from the prohibitions set forth in Section 1 of this Order are as follows:

1. All budget activities a) directly related to the official personal needs of a statewide elected official or b) which are necessary for the statewide elected official to personally perform his or her constitutional functions;

2. All budget activities funded by Act 19 which are not financed by a) funds from the State General Fund (Direct), as that term is used in Act 19, or b) other funds the balances of which revert to the State General Fund (Direct), as that term is used in Act 19 (hereafter "State General Fund Equivalent");

3. All budget activities funded by Act 19 which are directly related to Year 2000 compliance, as that term is used in Executive Order No. MJF 96-50, as amended by Executive Order No. MJF 98-4;

4. All budget activities funded by Act 19 which are set forth in Act 19 under Schedule 19(A) Higher Education, for carrying out the functions of higher education;

5. All budget activities of the Office of the Governor which are funded by Act 19; and

6. All budget activities funded by Act 19 which are expressly and directly mandated by existing court orders.

B. The budget activities funded by Act 19 which are exempt from the prohibitions set forth in Subsection 1(A) of this Order are as follows:

1. employee transfers, promotions, or reallocations within a department, office, agency, board or commission of the executive branch of state government which will not, in any manner, increase the aggregate number of filled positions in that department, office, agency, board or commission as of the effective date of this Order.

2. positions in the Community Development Block Grant Program within the Division of Administration;

3. positions in the Military Department associated with the Gillis Long Center;

4. positions in the Louisiana Commission on Law Enforcement associated with the Juvenile Justice Delinquency Prevention Program, Omnibus Crime Control and Drug Control and System Improvement Grant, Crime Victim Assistance Grant, Safe Streets Act, Violence Against Women, and Juvenile Accountability Incentive Federal Block Grant;

5. all direct patient care positions in the Louisiana War Veterans Home and the Northeast Louisiana War Veterans Home;

6. positions in the Office of Elderly Affairs funded with federal funds but require matching state funds;

7. positions in the Office of the State Library of Louisiana within the Department of Culture, Recreation and Tourism needed to fulfill federal maintenance of effort requirements;

8. positions in the Office of State Parks within the Department of Culture, Recreation and Tourism needed to fully operate the state parks system;

9. correctional security officers, probation and parole agents, direct medical care positions, other positions in corrections services necessary for the maintenance of national accreditation, and Pardon Board and Parole Board positions within the Department of Public Safety and Corrections;

10. data processing positions in Public Safety Services, Office of Management and Finance;

11. all commissioned troopers of the State Police;

12. all direct patient care, security, maintenance and housekeeping personnel in the Department of Health and Hospitals;

13. all positions at the Feliciana Forensic Facility;

14. all eligibility determination case workers and Louisiana Children's Health Insurance Program (LaCHIP) staff of the Medical Vendor Administration;

15. all Family Independence Temporary Assistance Program (FITAP) eligibility determination case workers, Family Independence (FIND) work employment and training staff, child support enforcement personnel, disability determination workers, child care assistance employees and child welfare services program positions in the Department of Social Services needed to meet the federal criteria to receive the Temporary Assistance to Needy Families block grant and to continue to provide necessary child welfare services;

16. positions of the Underground Injection Control Activity of the Public Safety Program of the Office of Conservation within the Department of Natural Resources;

17. Revenue Tax Auditors, Revenue Analysts, Revenue Tax Directors, Tax Collection Analysts, Tax Officers and Tax Representatives within the Department of Revenue;

18. alcohol and tobacco investigators in the Department of Revenue;

19. information services positions within the Department of Labor;

20. all instructional positions within the Technical College System;

21. all instructional and residential personnel at Special Schools and Special School District #1 and all administrative personnel positions deemed to be absolutely critical for the operations of those schools;

22. all positions in the Office of Student Financial Assistance;

23. all positions in the LSU Health Care Services Division;

24. all positions within the Office of Workforce Development of the Department of Labor which provide support for the Welfare to Work Grant;

25. inspection and licensing investigators, architects and engineers in Plan Review, and Deputy State Fire Marshals in Arson Enforcement within the Office of State Fire Marshal; and

26. all positions at the Developmental Centers of the Office of Citizens with Developmental Disabilities within the Department of Health and Hospitals.

C. The budget activities funded by Act 19 which are exempt from the portion of the provisions of Subsection 1(B) of this Order that prohibits the expenditure of funds for travel are as follows:

1. all travel associated with promoting or marketing the state of Louisiana and/or its products by a) the Office of State Parks and/or the Office of Tourism within the Department of Culture, Recreation, and Tourism, or b) the Department of Economic Development;

2. field travel for the Mental Health Advocacy Service;

3. field travel for the Division of Administration;

4. field travel for the Education Program in the Military Department;

5. field travel for the Department of Veterans Affairs;

6. field travel for the Office of Elderly Affairs;

7. field travel for the Risk Litigation and the Gaming Enforcement Programs of the Office of the Attorney General;

8. travel for auditing and cash management reviews by the Office of the State Treasurer;

9. field travel for inspections and investigations of the Agriculture and Environmental Sciences Program, the Animal Health Services Program, and the Forestry Program within the Department of Agriculture and Forestry;

10. travel for the Department of Insurance necessary for auditing, reviews, and/or investigations;

11. field travel of the board members of the Pardon Board and the Parole Board;

12. field travel by probation and parole officers of the Department of Public Safety and Corrections - Corrections Services that is necessary and essential to fulfill the department's mission;

13. field travel for the Legal Section of the Department of Public Safety and Corrections, Office of Management and Finance;

14. field travel of district managers and roving motor vehicle workers in the Office of Motor Vehicles within the Department of Public Safety and Corrections;

15. field travel required by inspectors of the Office of the State Fire Marshal;

16. field travel of the Department of Health and Hospitals, the Department of Social Services, and the LSU Medical Center Health Care Services Division that is

necessary and essential to fulfill the department and/or the division's mission;

17. field travel for tax collection efforts of the Department of Revenue;

18. field travel of the Alcohol and Tobacco Program within the Department of Revenue;

19. field travel of the State Tax Commission;

20. field travel for water sampling and/or for mercury contamination activities by the Water Resources Program within the Department of Environmental Quality;

21. field travel of Municipal Fire and Police Civil Service Commission employees and board members;

22. field travel of the State Police Commission;

23. travel of the Office of Student Financial Assistance;

24. all travel funding remaining in the State General Fund (Direct) and State General Fund Equivalent for reimbursements for the members of the Board of Elementary and Secondary Education for attending meetings of the board; and

25. the sum of \$162,400, of the \$690,022 estimated amount remaining in the State General Fund (Direct) and State General Fund Equivalent, for the State Activities Office of the Department of Education for field travel associated with MFP/Internal Auditors, field travel associated with the School of Accountability Initiative, and field travel to monitor local teacher assessments.

D. The budget activities funded by Act 19 which are exempt from the portion of the provisions of Subsection 1(B) of this Order that prohibits the expenditure of funds for supplies are as follows:

1. expenditures of all departments, agencies, offices, boards and commissions for routine supplies that total no more than twenty percent (20%) of the sum remaining on the effective date of this Order which is available to that department, agency, office, board or commission from State General Fund (Direct) or State General Fund Equivalent for supply expenditures;

2. medical and food supplies for the Military Department;

3. medical and food supplies for the Louisiana War Veterans Home and the Northeast Louisiana War Veterans Home;

4. supplies for the Office of State Parks within the Department of Culture, Recreation and Tourism for maintenance and household needs to maintain state parks and commemorative areas;

5. supplies for incarceration, rehabilitation, and health services, and/or the Blue Walters and Diagnostic Programs, of the state adult correctional institutions;

6. supplies for state juvenile correctional institutions;

7. supplies for probation and/or parole officers;

8. supplies for the Field Services Program of the Office of Youth Development within the Department of Public Safety and Corrections;

9. all medical, pharmaceutical and related supplies for the divisions of the Department of Health and Hospitals, the

Department of Social Services, and the LSU Medical Center Health Care Services Division which provide direct patient care services;

10. office, data processing, and computer supplies necessary for Revenue Agent positions in the Department of Revenue;

11. supplies for the Water Resources Program within the Department of Environmental Quality for water sampling and/or mercury contamination activities;

12. the sum of \$973,276, of the \$1,342,641 estimated amount remaining from the State General Fund (Direct) and State General Fund Equivalent, for supplies for Technical Colleges;

13. supplies for the Louisiana School for the Visually Impaired and the Louisiana Special Education Center;

14. the sum of \$90,138, of the \$205,624 estimated amount remaining from the State General Fund (Direct) and State General Fund Equivalent, for supplies for instructional and residential programs at the Louisiana School for the Deaf;

15. the sum of \$82,263, of the \$95,341 estimated amount remaining from the State General Fund (Direct) and State General Fund Equivalent, for supplies for instructional and residential programs at the Louisiana School for Math, Science, and the Arts;

16. supplies for the Office of Student Financial Assistance;

17. the sum of \$10,000, of the \$24,207 estimated amount remaining from the State General Fund (Direct) and State General Fund Equivalent, for office supplies for the agendas and minutes of the meetings of the Board of Elementary and Secondary Education;

18. the sum of \$546,000, of the \$1,093,322 estimated amount remaining from the State General Fund (Direct) and State General Fund Equivalent, for supplies for the computer center and other programs associated with the School Accountability Initiative of the State Activities Office within the Department of Education;

19. the sum of \$24,144, of the \$35,493 estimated amount remaining from the State General Fund (Direct) and State General Fund Equivalent, for educational supplies at Special School District #1; and

20. automotive supplies for commissioned troopers of the State Police.

E. The budget activities funded by Act 19 which are exempt from the portion of the provisions of Subsection 1(B) of this Order that prohibits the expenditure of funds for acquisitions and major repairs are as follows:

1. the sum of \$23,000, of the \$44,823 estimated amount remaining from the State General Fund (Direct) and State General Fund Equivalent, for office acquisitions associated with new staff members of the School Accountability Program in the State Activities Office of the Department of Education;

2. buildings, grounds and general plant maintenance equipment needs of the Division of Administration;

3. data processing hardware and software acquisition needs of the Division of Administration;

4. office equipment for the Board of Tax Appeals;
5. library acquisitions for the Office of the Attorney General;
6. data processing equipment for the Department of Insurance;
7. book acquisitions of the Office of the State Library of Louisiana within the Department of Culture, Recreation and Tourism;
8. equipment needed to operate Tickfaw State Park, Winter Quarters, and Plaquemine Locks State Commemorative Area, and equipment needed for the reservation system of the Office of State Parks within the Department of Culture, Recreation and Tourism;
9. acquisitions and major repairs for incarceration, rehabilitation, and health services, and the Blue Walters and Diagnostic Programs at state adult correctional institutions;
10. acquisitions and major repairs for state juvenile correctional institutions;
11. acquisitions for the Field Services Program of the Office of Youth Development within the Department of Public Safety and Corrections;
12. major repairs at Winn Correctional Center and Allen Correctional Center;
13. replacement automobiles for probation and parole officers;
14. replacement automobiles, data processing equipment and safety equipment for the Office of the State Fire Marshal;
15. acquisitions and major repairs for the Feliciana Forensic Facility;
16. acquisitions and major repairs for the Office of Alcohol and Drug Abuse within the Department of Health and Hospitals necessary to meet federal maintenance of effort general fund expenditure requirements;
17. acquisitions and major repairs for the Tax Remittance Processing System within the Department of Revenue;
18. acquisitions and major repairs for all Special Schools and for Special School District #1;
19. acquisitions and major repairs for the Office of Student Financial Assistance; and
20. equipment associated with the Gillis Long Center in the Military Department.

SECTION 3: Each department, agency, office, board or commission shall file a report with the commissioner of administration on February 1, 1999, and a monthly report thereafter reflecting projected savings, by means of financing, that the department, agency, office, board or commission will generate through the implementation of this Order. Unless otherwise modified by the commissioner of administration,

the first report shall include the period from January 8, 1999, through February 1, 1999. The report 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 report shall include a categorized summary of transactions which resulted pursuant to the exceptions set forth in Section 2 and/or permitted pursuant to Subsection 4(A) of this Order.

SECTION 4:

A. The commissioner of administration is authorized to grant any agency, department, office, board or commission in the executive branch of state government an exemption, on a case by case basis or by category, from all or a part of the prohibitions set forth in Section 1 of this Order, as he deems necessary and appropriate. Such an exemption shall be express and in writing.

B. Requests for an exemption from all or a part of the prohibitions set forth in Section 1 of this Order, on a case by case basis or by category, shall be submitted only by a statewide elected official, by the secretary or head of a department, or by the head of an agency, office, board or commission which is not within a department. Each request for an exemption shall be in writing and shall contain a description of the type of exemption sought and full justification for the request.

C. The commissioner of administration may develop guidelines pertaining to requests for exemption from all or a part of the prohibitions set forth in Section 1 of this Order.

D. If necessary, the commissioner of administration may develop definitions for the terms and/or the descriptions used in this Order.

SECTION 5: This Order is effective upon signature and shall remain in effect through June 30, 1999, 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 8th day of January, 1999.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9901#076

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Office of the Secretary

Port Development Program
(LAC 13:I.Chapter 80)

The Office of the Secretary of the Department of Economic Development is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority of Acts 1998, Number 29, Section 1 of the Regular Session of the Legislature. It is necessary to publish these rules because of a recognized immediate need to provide financial assistance to public port authorities in Louisiana for capital projects which improve or maintain waterborne commerce and intermodal port infrastructure in an effort to improve efficiency of the system and contribute to the location of new industry, or expansion and retention of existing industry and employment within the state.

Without these Emergency Rules, the public welfare may be harmed as a result of possible disruption in the efficiency of the public port authorities in Louisiana and create delays in awarding grants for economic development related infrastructure improvements under the provisions of the Port Development Program, inasmuch as such delays could result in the loss of industry and jobs.

The proposed Emergency Rules are intended to mitigate the disruptions described above.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 80. Port Development Program

§8001. Purpose and Scope

The purpose of the program is to provide financial assistance to public port authorities for capital projects which improve or maintain waterborne commerce and intermodal port infrastructure. Under this program, the Louisiana Department of Economic Development (DED) is authorized to accept and review applications from eligible port authorities for project assistance. Upon favorable evaluation and prioritization of individual projects by DED's review committee, recommendations may be made to the Secretary of Economic Development for funding qualified projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8003. Definitions

Applicant—the sponsoring Louisiana port authority requesting financial assistance from DED under this program.

Award—funding approved under this program for eligible applicants.

Awardee—an applicant receiving an award under this program.

Capital Projects—include any port infrastructure development project, including land acquisition and attendant development costs.

Cash—any asset on the port's records used for the project.

DED—Louisiana Department of Economic Development.

In-Kind—any service, land or equipment donated to a port outside of its legal entity.

Intermodal Infrastructure Development—refers to the provision of highway, rail, water, or air access; and internal trans-loading or distribution facilities to property owned and maintained by a local port authority.

Program—the Port Development Program.

Project Priority List—a list of projects proposed by eligible applicants ranked for program funding by the Louisiana Department of Economic Development.

Secretary—the Secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8005. Program Objective

The objectives of this program are to develop and sustain the Louisiana ports and the navigable waterways system, particularly those infrastructures that improve efficiency of the system and contribute to the location of new industry, or expansion and retention of existing industry and employment within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8007. Eligibility

All Louisiana public port authorities are eligible to participate in the program. However, port projects that are eligible for funding under the Louisiana Port Construction and Development Priority Fund administered by the Louisiana Department of Transportation and Development will not be eligible for funding under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8009. Types of Projects

The types of projects funded under the program will include any type of port capital development projects, rehabilitation and maintenance, intermodal projects, land acquisition, site prep work and project feasibility studies that promote water transport and waterfront development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8011. Match

Each port authority will provide a match equal to at least 50 percent of the total cost of the project. The match may be furnished in cash or in-kind. No state funds can be used as matching funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8013. Application Procedure

A. Port authorities sponsoring projects are expected to provide complete and verifiable information on the proposed projects. The project information supplied should be accurate and documented in order for the Department to adequately assess the merits of the project and prepare a project priority list. The sponsoring port authority must submit an application on a form provided by the Department which will contain, but not be limited to the following:

- 1. a description of the proposed project including the nature and goals of the project, design and its major components. Justify the immediate need for the project;
- 2. indicate the total cost of the project. Also show the sources of funding and when they will be available;
- 3. provide construction, operation and maintenance plans, and a timetable for the project's completion;
- 4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8015. Submission of Applications

Applications must be submitted to the DED to be considered for funding. Two copies of the application with all attachments should be submitted to the Secretary of DED .

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8017. Criteria

A. Consideration will be given to projects which have completed preliminary planning work and ensure that the project is initiated within the funding year in which the project is approved.

B. Consideration will be given to project contribution to regional economic development.

C. Preference will be given to projects with high employment potential and payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8019. Project Review Procedure

A. Submitted applications will be reviewed and evaluated by a DED review committee. The Committee will prepare a list of projects for funding, and if necessary, input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed in order to:

- 1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;
- 2. validate the information presented;

3. determine the overall feasibility of the port's plan.

B. After evaluation the review committee will submit a list of projects recommended to be eligible for funding to the Secretary of the Department of Economic development.

C. The Secretary of DED will have the final authority in funding any recommended project under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8021. Funding

In the event the fund falls below \$5 million, the projects will be limited to \$1 million each. However, in 1998 as available funds are limited, a port may be allocated up to 50 percent of the appropriated funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

§8023. Conditions for Disbursement of Funds

Grant award funds will be available to each port on a reimbursement basis following submission of required documentation to DED. Only funds spent on the project after the Secretary's approval will be considered eligible for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, Number 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:

Kevin P. Reilly, Sr.
Secretary

9901#044

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

Apprentice's Contract
(LAC 46:XLI.705)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective December 18, 1998, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule to shorten an apprentice jockey's apprentice period from 3 to 2 years, which will be consistent with other racing jurisdictions.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLI. Horseracing Occupations
Chapter 7. Jockeys and Apprentice Jockeys**

§705. Apprentice's Contract

- A. ...
- B. An apprentice shall start with 5 pounds allowance. He

shall continue this allowance for one year from the date of his fifth winner, after which, if he has not ridden 40 winners in the year following the date of his fifth winner, he shall continue the allowance for a period not to exceed two years from the date of his fifth winner or until he has ridden 40 winners, whichever occurs first.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:151.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:431 (December 1976), LR 3:27 (January 1977), repromulgated LR 4:276 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 17:588 (June 1991), LR 25:

Paul D. Burgess
Executive Director

9901#012

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Displaying Daily Double Rule
(LAC 35:XIII.10521)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective December 18, 1998, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule to allow racing associations to display the full daily double rule in the betting area as opposed to printing it in their daily racing program, which is consistent with other wagering rules.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 105. Daily Double

§10521. Displaying Daily Double Rule

This rule shall be prominently displayed throughout the betting area of each track conducting the daily double and printed copies of this rule shall be distributed by the track to patrons upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), amended by the Department of Economic Development, Racing Commission, LR 25:

Paul D. Burgess
Executive Director

9901#010

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Horse in Racing Condition
(LAC 46:XLI.313)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule amendment effective December 18, 1998, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

The Louisiana State Racing Commission finds it necessary to amend this rule to allow for horses to race without horseshoes under special circumstances as permitted by the stewards.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 3. Trainer

§313. Horse in Racing Condition

A. A trainer shall not enter or start a horse which is not in serviceably sound racing condition, has been tracheatubed or has been nerved.

B. However, horses which have had a posterior digital (heel nerve) neurectomy or cryosurgical intervention in the areas reserved for posterior digital neurectomies performed on one or more feet, may be permitted to race.

C. All horses which have undergone either of the above procedures shall be so designated on the foal certificate and be certified by the practicing veterinarian.

D. All horses which have undergone either of the above procedures prior to the adoption of this rule must also be certified, and it is the responsibility of the trainer to see that either of such procedures will be carried on the foal certificate.

E. All nerved horses, high or low, and all horses having had a cryosurgical intervention, as aforesaid, must be published on the bulletin board in the racing secretary's office.

F. Any horse which is high nerved shall not be permitted to enter in a race.

G. Except as provided herein, a trainer shall not enter or start a horse which has been "nerve blocked" or treated with, or been given any drug internally, externally or by hypodermic injection, except as permitted by LAC 35:I.1501 et seq.

H. Nor shall a trainer enter or start a horse which is blind or whose vision is seriously impaired in both eyes, is on a steward's, veterinarian's, starter's or disqualified list or is permanently barred from racing in any jurisdiction.

I. Additionally, a trainer shall not enter or start a horse which is not properly plated except where permission to start

without shoes is obtained from the stewards prior to entry. However, once a horse has started without shoes, it must race unshod for the balance of the meet, unless otherwise approved by the stewards. In any emergency situation the stewards shall have sole discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), LR 3:26 (January 1977), repromulgated LR 4:275 (August 1978), amended LR 5:325 (October 1979), LR 25:

Paul D. Burgess
Executive Director

9901#011

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Paint Horse Racing
(LAC 35:I.Chapter 10)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule (chapter of rules) effective December 18, 1998, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

The Louisiana State Racing Commission finds it necessary to adopt this rule (chapter of rules) to provide for the authorization of racing paint horses in the state of Louisiana. Chapter 10, Paint Horse Racing, of Title 35, Part I of the Rules of Racing contains §1001 through §1009.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 10. Paint Horse Racing

§1001. Applicable Rules

The rules of the commission shall govern Paint horse racing wherever they are applicable. When not applicable, the stewards may enforce the rules of the American Paint Horse Association, provided they are consistent with the rules of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§1003. Cases not Covered

Cases not covered by American Paint Horse Association rules shall be decided by the stewards with the advice and consent of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§1005. Jurisdiction

The jurisdiction of a licensed Paint horse race meeting shall be vested solely with the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§1007. Official Registry

The American Paint Horse Association shall be recognized as the sole official registry for Paint horses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

§1009. Races with Other Breeds

Races between Paint horses and other horse breeds are prohibited unless special permission is granted by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 25:

Paul D. Burgess
Executive Director

9901#009

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)—
Higher Education Scholarship and Grant Programs
(LAC 28:IV.301, 503, 703, 705)

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 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 December 8, 1998, 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. Effective beginning with graduates in academic year 2000-2001, 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 and recorded on the official transcript reported to the Louisiana Department of Education. 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:

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

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

By cross multiplying,

$$5X = 12; X = 2.40$$

Quality points = Credit for course multiplied by the value assigned to the letter grade.

* * *

Louisiana Resident—

a. any independent student or any dependent student with at least one parent or legal guardian who has resided in the state for a minimum of 24 consecutive months immediately preceding a certain date or the date of a specified event that is further defined by the programs found in Part IV of these rules, or some other period of residency which is required to qualify the person for a specific program administered by the LASFAC. To qualify for a program under Part IV of these rules, in addition to the certification of residency found on the application form, the administering agency may require an independent student applicant or the parent(s) or legal guardian of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent or legal guardian of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- i. if registered to vote, a Louisiana voters registration card; and
 - ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and
 - iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
 - iv. if earning a reportable income, a Louisiana tax return.
- b. any member of the Armed Forces on active duty whose official military personnel or pay records show that the member claims Louisiana as his home of record and who has filed a Louisiana tax return for the most recent two years in compliance with a.iv, above.

* * *

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:

Chapter 5. Application; Application Deadlines and Proof of Compliance

§503. Application Deadlines

* * *

B. Final Deadline. The final deadline for receipt of a student's initial application for state aid is July 1st of the high school academic year (which includes the Fall, Spring and Summer sessions) in which a student graduates. To renew an award in subsequent years, annual applications must be received by the July 1st deadline. Any student submitting an application for state aid after the Final Deadline will be ineligible for the requested aid. An application for renewal of an award in a subsequent year received after the July 1 deadline will not be processed, and the student will not be eligible for an award in that year. For example, for a student graduating in the 1998-1999 high school academic year, the student must submit an application (the Free Application for Federal Student Aid) to be received by the federal processor by July 1, 1999 and must submit an application to be received by the July 1st deadline for every year thereafter in which the student desires to renew the award.

* * *

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

§703. Establishing Eligibility

A. - 4.f. ...

g. all students must apply for an award by July 1st of the high school academic year (which includes the Fall, Spring and Summer sessions) in which they graduate to establish their initial qualification for an award. For a student entitled to defer acceptance of an award under section 703.A.4.b. or d., that student must apply by July 1st of the high school academic year in which the student graduates and must also apply by July 1st prior to the academic year in which the student intends to first accept the award, and every year of eligibility thereafter.

5.a. ...

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Course	Units
English I	1
English II	1
English III	1
English IV	1
Algebra I (one unit) or Applied Algebra 1A and 1B (two units)	1
Algebra II	1
Geometry, Trigonometry, Calculus or Comparable Advanced Math	1
Biology I	1

- 1 Chemistry I
- 1 Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II or Physics, Physics II or Physics for Technology
- 1 American History
- 1 World History, World Culture, Western Civilization or World Geography
- 1 Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
- 1 Fine Arts Survey; (or substitute two units Performance courses in Music, Dance and/or Theater; or two units of Studio Art or Visual Art; or one elective from among the other subjects listed in this core curriculum)
- 2 In the Same Foreign Language (one unit or credit for three or more hours of college foreign language for students graduating from high school during the 1996-97 and 1997-98 school years).
- ½ Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; (or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

ii. - F. ...

G.1. A student who enters a college or university under an early admissions program prior to high school graduation will be eligible for an appropriate award under the following conditions:

a. - d. ...

2. A student who graduates from high school in less than four years or who enters a college or university early admissions program prior to graduation from high school shall be considered a First-Time Freshman, as defined in §703, not earlier than the first semester following the academic year in which the student would have normally graduated had he or she not graduated early or entered an early admissions program. A student who graduates high school in less than four years or enters an early admissions program will remain eligible for a TOPS award until the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student normally would have graduated.

* * *

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 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:

§705. Maintaining Eligibility

* * *

C. In the event the administering agency determines that an ineligible student has received an award as the result of an administrative error or erroneous information provided by the student or the student's parent(s) or legal guardian or incorrect certification from the student's high school, the student's eligibility for the award shall be terminated and no further awards shall be made to the ineligible student. If an ineligible student has received an award due to an administrative error or incorrect certification, the administering agency will not

pursue recoupment from the student of funds that were awarded. If an erroneous award has been made and the administering agency determines that the award was made based upon incorrect information submitted by the student or the student's parent(s) or legal guardian, the administering agency may seek reimbursement from the student, the student's parent(s) or legal guardian, and if it is further determined that the award was made due to an intentional misrepresentation by the student, the student's parent(s) or legal guardian, then the administering agency shall refer the case to the Attorney General for investigation and prosecution. If a student or the student's parent(s) or legal guardian is suspected of having intentionally misrepresented the facts which were provided to the administering agency and used by it to determine the eligibility of the student for the program and the administering agency has referred the case to the Attorney General for investigation, then the student shall remain ineligible for future award consideration pending an outcome of said investigation which is favorable to the student.

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 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:

Jack L. Guinn
Executive Director

9901#021

DECLARATION OF EMERGENCY

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

Plan Document—Impotency Drugs

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) to adopt amendments to the Plan Document of Benefits.

This rule shall become effective on January 27, 1999, and shall remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

The Board finds that it is necessary to amend the Plan Document to limit benefits for drugs prescribed for treatment of impotency. Failure to adopt this amendment on an emergency basis will result in a financial impact which will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section VIII, of the Plan Document by adding thereto a new subsection, designated as subsection PP, to read as follows:

VIII. Exceptions And Exclusions For All Medical Benefits

No benefits are provided under this contract for:

* * *

PP. Drugs prescribed for Treatment of impotence, except when prescribed for males over the age of thirty, in a quantity not greater than five (5) per month, and provided that no benefits are payable for Yohimbine oral tablets, Papaverine and Phentolamine self-injectables, or any other drugs prescribed or dispensed for Treatment of impotence unless such Treatment is indicated in the approval of the drug by the Food and Drug Administration;

* * *

Jack W. Walker, Ph.D.
Chief Executive Officer

9901#043

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Corrections Services**

**Penalty Schedule—Disciplinary Report
(LAC 22:I.359)**

In accordance with the provisions of La. R.S. 49:953, the Louisiana Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an emergency rule change relative to the Disciplinary Rules and Procedures for Adult Inmates, LAC 22:I.341 et seq. is necessary and that for the following reasons failure to adopt the rule change on an emergency basis will result in imminent peril to the public health, safety and welfare.

The Disciplinary Rules and Procedures for Adult Inmates were adopted by the Louisiana Department of Public Safety and Corrections, Corrections Services, and published in the *Louisiana Register* and became effective February 15, 1993. (LAC 22:I.341, et seq.) It is the responsibility of the Secretary of the Louisiana Department of Public Safety and Corrections, Corrections Services, to prescribe rules and regulations for the maintenance of good order and discipline in the facilities and institutions under the jurisdiction of the Department, which rules and regulations shall include procedures for dealing with violations thereof. The Disciplinary Rules and Procedures for Adult Inmates provide for loss of good time by an adult inmate for violation of the rules and regulations. In the case of a Schedule A violation, the offender may lose good time up to a maximum of one-half of the amount earned by the inmate for one month, and in the case of a Schedule B violation, the offender may lose good time up to a maximum of the amount earned by the inmate for one month. The Louisiana Legislature has authorized the Department to impose a forfeiture of good time up to a maximum of one hundred and eighty days for violations of the rules and procedures. [La. R.S. 15:571.4(B)(4)(amended by

Louisiana Acts 1995, Number 980, effective August 15, 1995).]

The First Circuit Court of Appeals in the matter of *Terry Rivera, Sr. v. State of Louisiana, et al*, Number 98 CA 0507, decided December 28, 1998 (consolidated with *Joseph Romero v. La. Department of Public Safety and Corrections, et al*, Number 98 CA 0508), held that the Department could not enforce any disciplinary penalty of loss of good time in excess of the amounts provided for in the current rules notwithstanding the statutory authority granted the Department pursuant to La. R.S. 15:571.4(B)(4). The Department, to insure the maintenance of good order and discipline, must have the authority to impose penalties for violations of the rules and procedures to the full extent of the law. Disciplinary hearings within the facilities and institutions of the Department are numerous and ongoing and decisions rendered by such institutions that may be contrary to the holding of *Rivera* may be subject to legal challenge, which is detrimental to the good order and discipline of the Department. To revert to previously authorized limits of forfeiture of good time (which are significantly less than that currently authorized by statute) would result in the release of inmates from prison earlier than would otherwise be the case, resulting in potential risk to the public safety.

For the foregoing reasons, the Louisiana Department of Public Safety and Corrections, Corrections Services has determined that adoption of the emergency rule change is necessary and hereby adopts this emergency rule change effective January 4, 1999. This emergency rule shall remain in effect for a period of 120 days or until the final rule change is promulgated, whichever occurs first.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

**§359. Penalty Schedule. Disciplinary Report (Heard by
Disciplinary Board)**

- A.1.a. - d. ...
- e. forfeiture of good time up to a maximum of 30 days;
- f. - h. ...
- 2.a. - e. ...
- f. forfeiture of good time up to a maximum of 180 days;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonald*, 94 S.Ct.2963 (1974), *Ralph v. Dees*, C/A/ 81-94, USDC (Md.La.), *Terry Rivera, Sr. v. State of Louisiana, et al*, Number 98CA0507, (12/28/98) consolidated with *Joseph Romero v. Louisiana Department of Public Safety and Corrections, et al*, Number 98CA0508.

HISTORICAL NOTE: Promulgated by the Department of 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), amended LR 19:653 (May 1993), LR 25:

Richard L. Stalder
Secretary

9901#045

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Gaming Control Board

Delegation; Definitions; Licensing;
Transfers; Disciplinary Action

(LAC 42:III.104, LAC 42:IX.2105, 2701, 2703, 2707,
2723, 2901-2917, 2921, 3301-3309, and 3319)

(Editor's Note: Chapters 21-43 were originally promulgated in *The Advocate* on March 14, 1995. Copies of the full text of these rules can be obtained from the Attorney General's Gaming Division, 339 Florida Boulevard, Suite 500, Baton Rouge, LA 70801.)

The Gaming Control Board hereby amends LAC 42:III.104, LAC 42:IX.2105, 2701, 2703, 2707, 2723, 2901, 2903, 2905, 2907, 2909, 2911, 2913, 2915, 2917, 2921, 3301, 3303, 3305, 3307, 3309 and 3319 as follows, in accordance with La. R.S. 27:15, 24 and La. R.S. 49:953.

In accordance with the provisions of La. R.S. 49:953(B), the Louisiana Gaming Control Board has determined that it is necessary to adopt emergency rule changes relative to delegation of authority to the Chairman, LAC 42:III.104 and deleting the term *Casino Operator Affiliate* as it appears in the administrative rules originally adopted by the Louisiana Economic Development and Gaming Corporation, LAC 42:IX.2101 et seq.

Adoption of these rule changes on an emergency basis is necessary to ensure that the rule changes are in effect at the time of the anticipated closing/effective date of the Plan of Reorganization of Harrah's Jazz Company currently targeted at the same time as the conclusion of the suitability process anticipated to be mid-October, 1998. Emergency adoption will prevent imminent peril to the public health, safety and welfare by: ensuring that the unsecured creditors of Harrah's Jazz Company are paid as expeditiously as possible, thereby preventing any harm to Louisiana businesses that further delay can cause; ensuring that the Louisiana Gaming Control Board and ultimately the State of Louisiana begins to receive \$273,000 a day as expeditiously as possible; ensuring that approximately 1,000 construction jobs and thousands of direct and indirect permanent jobs are created as expeditiously as possible, providing numerous benefits to the State and relieving State assistance programs for the unemployed; ensuring that the Louisiana tourism and convention markets can compete as soon as possible with the ever increasing competition from Mississippi; and ensuring that the fundamental public policy goals established in the Louisiana Economic Development and Gaming Corporation Act are accomplished, including enhancing general economic development and stimulating the overall economy of the New Orleans area.

The failure to adopt these rule changes on an emergency basis will delay and otherwise impair accomplishment of all of these important objectives threatening the welfare of the State, the City of New Orleans and the numerous constituencies involved in the bankruptcy proceedings.

LAC 42:III.104 is being amended to allow the Board to authorize the execution of the Casino Operating Contract and that, once authorized by resolution, the Chairman or his designated representative may execute the Contract.

This amendment is necessary to authorize the Chairman or his designee to execute the agreement and to facilitate an orderly closing of the complex bankruptcy case involving numerous parties, documents and geographic locations.

The land-based casino regulations are also being amended to remove references to the term *Casino Operator Affiliate* which was specifically designed and adopted to deal with the former three tier non-public ownership structure of the Casino Operator as a partnership. The term was intended to ensure that the partners could not transfer their non-public ownership interests in the Casino Operator without Board approval and that any transferee of the partnership interests obtained any required suitability findings.

The amendment is essential to deal with the new two-tier public ownership structure of the Casino Operator as it will allow the common stock of the Operator to trade freely on the public markets without each holder of the stock obtaining approval before buying or selling the stock. Without the amendment, the bankruptcy case cannot close as the public company structure with shares being traded on the public markets is fundamental to the Plan of Reorganization before the Bankruptcy Court.

The amendment does not restrict the power of the Board under LAC 42:IX.2701 to require a finding of suitability for any person, regardless of their holdings in the public holding company, that controls or influences the affairs of the Casino Operator or that raises an integrity or other issue necessitating a finding of suitability under the Louisiana Gaming Control Law.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 1. General Provisions

§104. Delegation to Chairman

A. - 2. ...

3. enter into the casino operating contract on behalf of the Louisiana Gaming Control Board, provided however that the casino operating contract shall be executed on behalf of the Louisiana Gaming Control Board by the chairman or a designated representative when the casino operating contract is approved by the Louisiana Gaming Control Board and the chairman or a designated representative is specifically ordered by board resolution to execute the casino operating contract on behalf of the Louisiana Gaming Control Board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Gaming Control Board, LR 22:1140 (November 1996), amended LR 25:

Part IX. Land Based Casino

Chapter 21. General Provisions

§2105. Definitions, Words and Terms; Captions; Gender References

* * *

Approvals—those actions of the Casino Operator, Casino Manager, licensees or other persons found suitable, or transactions directly or indirectly involving such persons, which require Approval by the Corporation through the President or the Board, but which do not in themselves constitute licensing or a Finding of Suitability of any person involved, but the licensing or Finding of Suitability of the persons involved may, unless the Casino Act, these Regulations or the Corporation dictate otherwise, constitute Approval by the Corporation of the transaction in question.

Background Investigation—all efforts, whether prior to or subsequent to the filing of an application, designed to discover information about an applicant, Casino Operator, Casino Manager, licensee, registrant or other person found suitable and includes without time limitation, any additional or deferred efforts to fully develop the understanding of information which was provided or should have been provided or obtained during the application process. Examples of background investigation include, but are not limited to measures taken in connection with exploring information on applicants; procedures undertaken with respect to investigatory hearings, except for matters specifically disclosed in any hearing open to the public and orders, responses, and other documents relating thereto.

* * *

Casino Operator Affiliate—Repealed.

Finder's Fees—any compensation in money in excess of the sum of \$10,000, or real or personal property with a real value in excess of the sum of \$10,000 which is paid or transferred to any person in consideration for the arranging or negotiation of an extension of credit to the Casino Operator, or an applicant for licensing, registration, Approval or Finding of Suitability if the proceeds of such extension of credit is intended to be used for any of the following purposes: the acquisition of an interest in the Official Gaming Establishment or Casino Operator; to finance the gaming operations of the Casino Operator. The term shall not include compensation to the person who extends the credit; normal and customary payments to employees of the person to whom the credit is extended if the arranging or negotiation of credit is part of their normal duties; normal and customary payments for bona fide professional services rendered by lawyers, accountants, engineers and appraisers, underwriters discounts paid to a member of the National Association of Securities Dealers, Inc.; fees paid to banking institutions in connection with procuring credit.

Finding of Suitability—any action required or allowed by the President, Board, Casino Act or these Regulations that require certain persons, directly or indirectly involved with the Casino Operator, Casino Manager, licensees or registrants to be found suitable to hold a gaming license so long as such involvement continues. A finding of suitability relates only to the specified involvement for which it is made. If the nature of the involvement changes from that which the applicant is found suitable, he may be required to submit himself to a determination by the Corporation of his suitability in the new capacity.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

Chapter 27. Required Licensing

Subpart A. Suitability of Casino Operator

§2701. Suitability of Casino Operator

A. The following persons shall demonstrate their suitability and qualification to the Board by clear and convincing evidence (as those terms are defined in the Casino Act and LAC 42:IX.2329 and 2331):

1. a Casino Operator;
2. all other persons, who either alone or in combination with others, have the ability to significantly and directly affect or influence the affairs of a Casino Operator or a Casino Managers;
3. a person with respect to whom a finding of suitability is necessary in order to insure that the policies of the Casino Act and the integrity of gaming operations are protected; and
4. any other person that the Board in its discretion, directs to demonstrate its suitability and qualifications.

B. For the purpose of §2701 any persons holding, owning or Controlling a direct or beneficial interest (this shall include any rights created in any counter-letter, option, convertible security or similar instrument) in the following persons shall be presumed to have the ability to significantly and directly influence or affect affairs of a Casino Operator or Casino Manager unless the presumption is rebutted by clear and convincing evidence:

1. any persons holding, owning or controlling a 5 percent or more equity interest or outstanding voting securities (including holdings in trust and whether as settlor, trustee or beneficiary) in a non-publicly traded Intermediary or Holding Company of the Casino Operator or the Casino Manager; and
2. any persons holding, owning or controlling a 10 percent or more equity interest or outstanding voting securities or rights in a publicly traded or any publicly traded Intermediary or Holding Company of a Casino Operator or a Casino Manager.

C. Notwithstanding the terms of §2701.B, the following persons shall not be automatically deemed to have the ability to significantly and directly influence the affairs of the persons or entities identified above requiring a Finding of Suitability:

1. a holder or owner of a Security or other interest that is convertible or exercisable into an equity or ownership interest in a publicly traded Public Traded Intermediary or Holding Company thereof prior to the time that the Security or other interest is converted or exercised. A holder or owner of a convertible interest shall seek the approval of the Corporation before exercising the conversion rights unless, after conversion such person will hold, own or control less than 10 percent of the total outstanding equity or ownership interests in the Intermediary or Holding Company thereof;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§2703. Safe Harbor

A. If at any time the Corporation finds that a holder of a debt or equity interest in the Casino Operator or any of their respective Affiliates, that is required to be and remain suitable has failed to demonstrate suitability, the Corporation may, consistent with the Casino Act and the casino operating contract, take any action that the Corporation deems necessary to protect the public interest. Provided however if, a holder of a debt or equity interest in the Casino Operator or any of their respective Affiliates associated with the Casino Operator or Affiliates has failed to demonstrate suitability, the Corporation shall take no action to declare the Casino Operator or Affiliates, as the case may be, not Suitable based upon such finding, if the affected Casino Operator, or Affiliates takes immediate good-faith action (including the prosecution of all legal remedies) and complies with any order of the action (including the prosecution of all legal remedies) and complies with any order of the Corporation to cause such person failing to demonstrate suitability to dispose of such person's interest in the affected Casino Operator or Affiliates, and that pending such disposition such affected Casino Operator or Affiliates, from the date of notice from the Corporation of a finding of failure to demonstrate suitability, ensures that the person failing to demonstrate suitability:

1. does not receive dividends or interest on the securities of the Casino Operator or Affiliates;
2. does not exercise, directly or indirectly, including through a trustee or nominee, any rights conferred by the securities of the Casino Operator or Affiliates;
3. does not receive any remuneration from the Casino Operator or Affiliates;
4. does not receive any economic benefit from Casino Operator or Affiliates;
5. subject to the disposition requirements of §2703, does not continue in an ownership or economic interest in the Casino Operator or Affiliates or remain as a manager, officer, director, partner, employee, consultant or agent of the Casino Operator or Affiliates.

B. Nothing contained in §2703 shall prevent the Corporation from taking any action against the Casino Operator if the Casino Manager fails to be or remain suitable. Moreover, nothing contained in §2703 shall prevent the Corporation from taking regulatory action against the Casino Manager, Casino Operator or Affiliates as the case may be, if the Casino Operator, Casino Manager or Affiliates as the case may be:

1. had actual or constructive knowledge of the facts that are the basis of the Corporation regulatory action, and failed to take appropriate action; or
2. is so tainted by such person failing to demonstrate suitability so as to affect the suitability of the Casino Operator, the Casino Manager or Affiliates under the standards of the Casino Act or these Regulations; or

3. cannot meet the suitability standards contained in the Casino Act and these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§2707. Loan Transactions

A. All loan transactions in excess of \$10,000,000 (ten-million dollars) in which the Casino Operator is a party, shall require the prior Approval of the Corporation, except those transactions permitted by Section 13.6 of the casino operating contract, provided the source of any funds is a suitable lender.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

Subpart D. Licensing of Vendors and Other Service or Property Providers

§2723. Required Licensure

A. The following shall, prior to conducting any business with the Casino Operator or Casino Manager, apply for and receive an appropriate license by demonstrating his suitability and qualifications in accordance with LAC 42:IX. 2329 and 2331:

1. all manufacturers, distributors and other providers or suppliers of Gaming Devices or Gaming Supplies;
2. all casino security services and repairers, and limousine services.

B. Any person who furnishes services or property to the Casino Operator or Casino Manager under any arrangement pursuant to which the person receives payments based on earnings, profits or receipts from gaming operations, shall apply for and receive a license, by demonstrating his suitability and qualifications, in accordance with LAC 42:IX.2329 and 2331, prior to engaging in any such transaction or activity. The Casino Manager shall be deemed to have complied with §2723 if it has the requisite Approvals pursuant to Section 8.1 of the casino operating contract and otherwise complies with these Regulations.

C. Any person who is entitled to receive Finders Fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

Chapter 29. Transfers of Interest, Public Offerings and Other Financial Transactions Requiring Corporation Approval

§2901. Transfer of Interest, General

No person shall sell, assign, lease, grant, hypothecate, transfer, convey, purchase or acquire any interest of any sort whatsoever, or foreclose on a security interest in the Casino Operator or Casino Manager, or any portion thereof, or enter into or create a voting trust agreement or any agreement of

any sort in connection with any licensed gaming operation or any portion thereof, except in accordance with the Casino Act and these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§2903. Disclosure of Representative Capacity

No person shall transfer, assign, pledge, or otherwise dispose of, or convey in any manner whatsoever, any ownership interest in the Casino Operator or Casino Manager to any person acting as an agent, trustee or in any other representative capacity for or on behalf of another person without having first fully disclosed all facts pertaining to such transfer and representation to the Corporation. No person acting in such representative capacity shall hold or acquire any such interest or so invest or participate without having first fully disclosed all facts pertaining to such representation to the Corporation and having obtained written permission from the President.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§2905. Transfer of Interest Prior to Approval

The sale, assignment, transfer, pledge, alienation, disposition, public offering, acquisition or other transfer of any ownership interest of the Casino Operator, Casino Manager must receive prior Approval from the Corporation. Any sale, assignment, transfer, pledge, alienation, disposition, public offering, acquisition or other transfer of interest of the Casino Operator or Casino Manager that occurs without the prior Approval of the Corporation shall be void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§2907. Transfer of Interest, Application

A. Unless otherwise provided in LAC 42:IX. 2909, any person or entity filing an application for transfer of any ownership interest in the Casino Operator or Casino Manager shall complete an application on a form prescribed by the Corporation which shall form the basis for the Corporation's investigation to determine the suitability of the transferee. All costs associated with the Corporation's investigation of the application for a transfer of interest shall be born by the individual or entity seeking the ownership interest. An application fee of \$300.00 shall be paid at the time of filing the application.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§2909. Transfer Among Licensees

If a person who is the owner of any interest of the Casino Operator or Casino Manager proposes to transfer ownership of said interest to another person who is also an owner of the Casino Operator or Casino Manager, the following shall apply:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§2911. Transfer of Interest to Non-Licensee

A. No person who owns any direct ownership interest in the Casino Operator or Casino Manager shall in any manner whatsoever, transfer any part of the interest therein to any person, who is not then a licensee or otherwise has been found suitable by interest therein to any person, who is not then a licensee or otherwise has been found suitable by the Corporation. No such transfer shall be effectuated for any purpose until the proposed transferee has made application for and has obtained all licenses, or Findings of Suitability required by the Casino Act and these Regulations and until the transfer and application has been Approved by the Corporation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§2913. Stock Restrictions

Unless otherwise Approved by the Corporation in advance, all ownership securities issued by the Casino Operator or Casino Manager shall bear on both sides of the certificate a statement of the restrictions containing the following inscription:

"The purported sale, assignment, transfer, pledge or other disposition of this security must receive the prior Approval of the Louisiana Economic Development and Gaming Corporation. The purported sale, assignment, transfer, pledge or other disposition, of any security or shares issued by the entity issuing this security is void unless Approved in advance by the Louisiana Economic Development and Gaming Corporation. If at any time an individual owner of any such security is determined to be disqualified under the Casino Act to continue as a licensee or suitable person, the issuing entity shall ensure that such person or persons may not receive any dividend or interest upon any such security, exercise, directly or indirectly through any trustee or nominee any voting right conferred by such security receive remuneration in any form from the Casino Operator or Casino Manager for services rendered or otherwise, receive any economic benefit from the Casino Operator or Casino Manager or function as a manager, officer, director, or partner thereof."

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§2915. Escrow Required

A. No money or other thing of value constituting any part of the consideration for the transfer of interest or acquisition of

interest in the Casino Operator or Casino Manager shall be paid over, received or used until complete compliance has been had with all prerequisites set forth in the Casino Act and these Regulations for the consummation of the transaction.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§2917. Public Offerings

The Casino Operator or Casino Manager and any non-publicly traded Holding Company shall apply for prior Approval of any proposed public offering of any ownership interest therein, and shall comply with all conditions imposed by the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§2921. Enforcement of a Security Interest

* * *

B. Notwithstanding any other provision of these Regulations, Approval is not required to enforce a security interest in a security issued by a Casino Operator, Casino Manager or Intermediary or Holding company thereof, if the gaming operation has ceased and the casino operating contract has been surrendered to the Board prior to the enforcement of such security interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

Chapter 33. Disciplinary Action

§3301. Violation of Law or Regulations

A. Violation of any provisions of the Casino Act or of these Regulations by a Casino Operator, Casino Manager, licensee, registrant, person found suitable or any agent or employee of such person shall be deemed contrary to the public health, safety, morals, good order and general welfare of the inhabitants of the State of Louisiana and grounds for suspension or revocation of a license or Finding of Suitability or imposition of a civil penalty in accordance with LAC 42:IX.3319 of these Regulations. Acceptance of a license, registration, Approval or Finding of Suitability or renewal thereof by the person constitutes an agreement on the part of the person to be bound by all of these Regulations of the Corporation as the same are, or may hereafter be amended.

B. It is the responsibility of the person to keep himself informed of the content of all such Regulations and ignorance thereof will not excuse violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§3303. Investigations and Hearings

The corporation shall investigate alleged violations of the Casino Act and these Regulations by any Casino Operator, Casino Manager, licensee, registrant, person found suitable, or member of the public. The President shall conduct hearings in accordance with LAC 42:IX.2501 et seq. to determine whether there has been a violation of any provisions of the Casino Act or these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§3305. Methods of Operation

A. It is the policy of the Corporation to require that the Official Gaming Establishment be operated in a manner suitable to protect the public health, safety, morals, good order and general welfare of the inhabitants of the State of Louisiana.

B. Responsibility for the employment and maintenance of suitable methods of operation rests with the Casino Operator and Casino Manager and willful or persistent use of or toleration of methods of operation deemed unsuitable will constitute grounds for disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§3307. Grounds for Disciplinary Action Against the Casino Operator or Casino Manager

The Corporation deemed any activity on the part of the Casino Operator, Casino Manager and their agents or employees, what is inimicable to the public health, safety, morals, good order and general welfare of the people of the State of Louisiana, or that would reflect or tend to reflect discredit upon the State of Louisiana or the gaming industry, to be an unsuitable method of operation and shall constitute grounds for disciplinary action by the Corporation in accordance with the Casino Act and these Regulations. Without limiting the generality of the foregoing, the following acts or omissions may be determined to be unsuitable methods of operations:

* * *

19. except transfers of interest made pursuant to LAC:IX.2901 et seq., the sale or assignment of any gaming credit instrument by a Casino Operator, Casino Manager, licensee or person found suitable unless the sale is to a publicly traded or other bonafide financial institution pursuant to a written contract, and the transaction and the terms of the transaction, including, but not limited to, the discount rate, are reported to the Corporation;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§3309. Disciplinary Action Against Employees and Agents

The Corporation may take disciplinary action against any employee or agent of the Casino Operator or Casino Manager if the employee or agent has:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

§3319. President’s Issuance of Orders

* * *

B. The President may require, prior to any disciplinary proceedings, that a corporate licensee, Casino Operator or Casino Manager place its securities in escrow under specified terms and conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, *The Advocate*, Baton Rouge, LA (March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:

These emergency rule changes were adopted by the Louisiana Gaming Control Board on December 15, 1998 and shall continue in effect until January 20, 1999.

Hillary J. Crain
Chairman

9901#017

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

Support Enforcement—Child Support Distribution
(LAC 67:III.2514)

The Department of Social Services, Office of Family Support, has exercised the emergency provision [R.S. 49:953(B)] of the Administrative Procedure Act, to amend LAC 67:III.2514 pertaining to Support Enforcement Services, the child support enforcement program effective January 30, 1999. It is necessary to extend the original emergency rule of October 2, 1998 since it is effective for a maximum of 120 days and will expire before the final rule takes effect.

Pursuant to Public Law 104-193 (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), Public Law 105-33 (the Balanced Budget Act of 1997) and Office of Child Support Enforcement Action Transmittal 98-24, Support Enforcement Services will change the order in which collection of past-due support is distributed beginning October 2, 1998. Former recipients of Aid to Families with Dependent Children and/or Family Independence Temporary Assistance Program benefits will receive arrearages owed to the family before reimbursements to the state and federal governments are made. These reimbursements are for the cash assistance received by the recipients.

An emergency rule is necessary to avoid federal sanctions or penalties which could be imposed if implementation is delayed since the agency chose the October 1, 1998 distribution option provided by P.L. 105-33.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Support Payments

§2514. Distribution of Child Support Collections

A. Effective October 2, 1998 the agency will distribute child support collections in the following manner:

1. ...
2. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through any means other than IRS intercepts will be distributed as follows:
 - a. the AR shall receive an amount equal to the court-ordered monthly obligation and any arrears owed to the AR that accrued in a non-assistance period;
 - b. amounts owed to the state;
 - c. any arrears that accrued during assistance that exceed the unreimbursed grant will be paid to the AR.

3. - 4. ...

5. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through IRS intercepts will be distributed as follows:
 - a. amounts owed to the state; and
 - b. amounts owed to the AR.

B. Any collections received through income assignments are subject to refund to the noncustodial parent based on federal and state laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, and OCSE-AT-98-24.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1997), amended LR 24:703 (April 1998), LR 25:

Madlyn B. Bagneris
Secretary

9901#039

DECLARATION OF EMERGENCY

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

1998 Fall Inshore Shrimp Season Closure

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967, and in accordance with R.S. 56:497A(9), which allows the Louisiana Wildlife and Fisheries Commission to delegate authority to the Secretary of the Department to set seasons, and in accordance with the resolution adopted by the Louisiana Wildlife and Fisheries Commission at its August 1998 meeting, which granted authority to the Secretary of the Department to change the closing date of the 1998 Fall Inshore

Shrimp Season, notice is hereby given that the Secretary of the Department of Wildlife and Fisheries declares:

1. The 1998 fall inshore shrimp season will close statewide at sunset on December 21, 1998, except for that portion of Zone 1 extending north of the south shore of the Mississippi River Gulf Outlet, including Lake Pontchartrain and Lake Borgne, which shall close at 6:00 a.m., Monday, January 11, 1999.

2. Additionally, Breton and Chandeleur Sounds, as described in R.S. 56:495.1.A.(2), shall remain open until 6:00 a.m., March 31, 1999.

James H. Jenkins, Jr.
Secretary

9901#016

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

1999 Recreational Red Snapper Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in its resolution of December 3, 1998 setting the 1999 recreational red snapper seasons in Louisiana state waters, to set the opening date for the recreational red snapper season when he is informed that the opening date for the recreational red snapper season for Federal waters of the Gulf of Mexico has been set by the National Marine Fisheries Service (NMFS), the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 12:01 a.m., January 1, 1999, the recreational fishery for red snapper in Louisiana waters will open. All rules and regulations for the legal recreational take and possession of red snapper shall apply during this open season.

The Secretary has been notified by NMFS that the recreational red snapper season in Federal waters will be opened on that date. Opening the season in State waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

9901#015

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shark Permit

The Wildlife and Fisheries Commission does hereby exercise the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to its authority under R.S. 56:6(10), 56:326(E)(2), 56:326.1 and 56:326.3 adopts the rule set forth below. This emergency rule is necessary to expedite the enforceability and effectiveness of Federal regulations on the commercial fishery for sharks in Federal waters off of Louisiana. Practices reported to presently occur in this fishery are contrary to sound conservation of the species, and to proper utilization of the fishery resource. Rules for Louisiana State waters are being promulgated through the Administrative Procedure Act. Some aspects of present practices require more expeditious action than is available through this procedure. Commercial license renewals are distributed beginning in November, and thus action prior to that time provides for more expeditious service by the Department to those people who require renewal of shark permits. High volume commercial trips, exceeding federally allowed limits, are presently occurring. Placing compatible trip limits in state waters will allow more effective enforcement of existing Federal limits. The practice of "finning", as described in this rule, has become more prevalent in some parts of the fishery, resulting in less utilization of the potential resource, and a loss of valuable scientific information on the species that are harvested in the fishery. It is therefore in the best interest of the state, and appropriate that these regulations be enacted expeditiously, thereby requiring emergency action.

This emergency rule shall be effective at 12:01 a.m., January 11, 1999 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Sharks and Sawfishes Daily Take and Possession Limits, Quotas and Special Permit Requirements

A. Permits

1. In addition to all other licenses and permits required by law, a valid original "Shark Permit" shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging, or bartering sharks to Louisiana Wholesale/Retail dealers; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for or possessing shark. Each "Shark Permit" holder shall on or before the tenth of each month submit an information return to the Department on forms provided or approved for this purpose, including the number and weight of each species of shark taken commercially from Louisiana waters during each trip of the

preceding month, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

2. All persons who do not possess a "Shark Permit" issued by the Department of Wildlife and Fisheries, and, if applicable, a Federal Shark Permit issued by the National Marine Fisheries Service, are limited to a possession limit. All persons who do not possess a Louisiana "Shark Permit" and, if applicable, a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, shall be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal bycatch allowances for menhaden fishing as provided for in R.S. 56:324.

3. Legally licensed Louisiana Wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a "Shark Permit" in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.4 and 56:306.5.

B. Trip and Possession Limits

1. A possession limit consists of two Atlantic sharpnose sharks and two sharks of any other species unless a valid original Louisiana "Shark Permit", and, if applicable, a federal shark permit, issued in the name of the commercial fisherman is in possession.

2. A person that has been issued or possesses a federal shark permit issued by the National Marine Fisheries Service

under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, Large Coastal Species in excess of 4,000 pounds per vessel, dressed weight.

3. Persons possessing a Louisiana "Shark Permit" shall not possess on any trip, or land from any trip, or sell, Large Coastal Species in excess of 4,000 pounds per vessel, dressed weight.

4. Large Coastal Species of sharks are composed of: Great Hammerhead, Scalloped Hammerhead, Smooth Hammerhead, Nurse shark, Bignose shark, Blacktip shark, Bull shark, Caribbean reef shark, Dusky shark, Galapagos shark, Lemon shark, Narrowtooth shark, Night shark, Sandbar shark, Silky shark, Spinner shark, Tiger shark.

C. Fins

1. The practice of "finning", that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited in Louisiana waters.

2. Shark fins that are possessed aboard or offloaded from a fishing vessel must not exceed 5 percent of the weight of the shark carcasses. All fins must be weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing and such weights of the fins landed must be recorded on dealer records in compliance with R.S. 56:306.5. Fins from shark harvested by a vessel that are disproportionate to the weight of the carcasses landed shall not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

3. Shark fins may not be possessed aboard a fishing vessel after the vessel's first point of landing.

Thomas M. Gattle, Jr.
Chairman

9901#048

Rules

RULE

Department of Civil Service Board of Ethics

Records and Reports; Filing
(LAC 52:I.1301, 1311, 1604, and 1801-1805)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Louisiana Board of Ethics, promulgated amendments and changes to the Rules for the Board of Ethics to permit the electronic filing of reports with the Board of Ethics Data Management System as mandated by Louisiana Revised Statute 42:1158A(2)(b).

Title 52 ETHICS

Part I. Board of Ethics

Chapter 13. Records and Reports

§1301. Custodian

The executive secretary shall be the custodian of all records, reports, and files, including electronic reports and files of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 25:24 (January 1999).

§1311. Records and Reports; Accepting and Filing

Any record or report submitted pursuant to this Chapter shall be accepted and filed upon receipt by the staff or upon acknowledgment of receipt by the board's electronic filing system, unless the record or report is not in compliance with the requirements established by this Chapter or by law. The names of the persons submitting records and reports which are accepted and filed shall be listed on the board's agenda. The records and reports which are not in compliance with the requirements established by this Chapter or by law shall be placed upon the board's agenda for further action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:100 (October 1997), amended LR 25:24 (January 1999).

Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act

§1604. Registration and Reporting; Forms

A. The staff shall prepare and provide upon request, forms for the registration and reporting by political committees and reporting by candidates. The forms may be provided on paper or in electronic format.

* * *

C. The method of signature for reports electronically filed shall be as provided in §1803.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997), amended LR 25:24 (January 1999).

Chapter 18. Electronic Filing

§1801. In General

The board recognizes the importance of immediate public access to publicly disclosed information. Accordingly, the board has implemented a system to allow ethics, lobbyist, and campaign finance disclosure reports to be electronically filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:24 (January 1999).

§1802. Methods of Filing

The board may allow reports to be electronically filed via modem, diskette, or through Internet access.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:24 (January 1999).

§1803. Validation of Reports

A. Upon receipt of an electronically filed report, the staff of the board shall cause a validation of receipt to be sent to the filer via facsimile, electronic mail, or United States mail.

B. Electronically filed reports shall include a digital signature created according to the methodology included in the board's electronic filing system.

C. Reports required to be filed under oath may be submitted electronically, with the original notarized report hand delivered or mailed, by United States mail, no later than the next working day following the due date of the required report.

D. Reports required to be accompanied by a filing fee may be submitted electronically, with the filing fee hand delivered or mailed, by United States mail no later than the next working day following the due date of the required report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:24 (January 1999).

§1804. Time of Filing

A report electronically filed shall be deemed timely if received electronically by midnight on the filing deadline. The system time of the board's system shall control in the event of a dispute as to the time of receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:24 (January 1999).

§1805. Refusal of Electronic Reports

The staff of the board may refuse to accept for filing an electronic report that contains a computer virus which could compromise the computer system of the board. The filer shall be immediately notified of the refusal so that an alternative method of delivery may be attempted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:24 (January 1999).

R. Gary Sexton
Administrator

9901#024

RULE

**Department of Economic Development
Racing Commission**

Field Less Than Six (LAC 35:XIII.11115)

The Racing Commission hereby adopts the following rule.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 111. Trifecta Wagering

§11115. Field Less Than Six

A. Trifecta wagering will be permitted when the number of scheduled starters in a thoroughbred or quarter horse race is six or more. A late scratch after wagering begins on that race will not cancel trifecta wagering.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), amended by the Department of Economic Development, Racing Commission, LR 18:366 (April 1992), LR 22:13 (January 1996), LR 25:25 (January 1999).

Paul D. Burgess
Executive Director

9901#013

RULE

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

Risk Evaluation/Corrective Action Program
(LAC 33:V.3309)

(Editor's Note: The following paragraphs of a rule, which appeared on page 2247 of the Louisiana Register, December, 1998, is being republished since a portion was inadvertently omitted.)

Chapter 33. Groundwater Protection

§3309. Concentration Limits

* * *

[See Prior Text in A - Table 1, Note 1]

B. The administrative authority may establish an alternate concentration limit for a hazardous constituent if he finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. The establishment of such alternative concentration limits shall be in accordance with LAC 33:I.Chapter 13. In establishing

alternate concentration limits, the administrative authority will consider the following factors:

1. potential adverse effects on groundwater quality, considering:

a. the physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

b. the hydrogeological characteristics of the facility and surrounding land;

c. the quantity of groundwater and the direction of groundwater flow;

d. the proximity and withdrawal rates of groundwater users;

e. the current and future uses of groundwater in the area;

f. the existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

g. the potential for health risks caused by human exposure to waste constituents;

h. the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

i. the persistence and permanence of the potential adverse effects; and

2. potential adverse effects on hydraulically-connected surface water quality, considering:

a. the volume and physical and chemical characteristics of the waste in the regulated unit;

b. the hydrogeological characteristics of the facility and surrounding land;

c. the quantity and quality of groundwater and the direction of groundwater flow;

d. the patterns of rainfall in the region;

e. the proximity of the regulated unit to surface waters;

f. the current and future uses of surface waters in the area and any water quality standards established for those surface waters;

g. the existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

h. the potential for health risks caused by human exposure to waste constituents;

i. the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

j. the persistence and permanence of the potential adverse effects.

C. In making any determination under Subsection B of this Section about the use of groundwater in the area around the facility, the administrative authority will consider any identification of underground sources of drinking water and exempted aquifers identified in the permit application under LAC 33:V.Chapter 3. Any identification of underground sources of drinking water shall be in accordance with LAC 33:I.Chapter 13.

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 10:280 (April 1984), LR 10:496 (July 1984), LR 16:614 (July 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:684 (April 1998), amended by the Office of the Secretary, LR 24:2247 (December 1998), repromulgated LR 25:25 (January 1999).

Herman Robinson
Assistant Secretary

9901#050

RULE

**Office of the Governor
Crime Victims Reparation Board**

Award Limits (LAC 22:XIII.503)

In accordance with the provisions of R.S.46:1801 et seq., the Crime Victims Reparations Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Crime Victims Reparations Board hereby promulgates rules and regulations relative to the awarding of compensation to applicants.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XIII. Crime Victims Reparations Board

Chapter 1. Authority and Definitions

§503. Limits on Awards

A.1. ...

2. All applications filed as the result of the death of a victim will be assigned one claim number with the deceased listed as the *primary* victim. Each additional claimant and/or *secondary victim* must submit a separate application with the appropriate claim form(s) and supporting documents. The aggregate claims arising out of the same crime will be subject to the maximum amount authorized by law.

B. ...

C. Funeral Expenses

1. The board will reimburse up to a maximum of \$3,500 to cover reasonable expenses actually incurred for the funeral, burial or cremation.

2. Death and/or burial insurance taken out specifically for the purpose of burial must pay first. The amount of life insurance proceeds paid may be considered as a collateral source.

3. Repealed.

D. ...

E. Loss of Support

1. - 2. ...

3. The board will reimburse loss of support with a maximum of \$10,000.

a. The board may award loss of support up to the maximum amount per week authorized for lost wages in §503.D.4. That amount is based on net, after-tax, or take home pay.

b. When only gross income is provided by a claimant, then the board will award the loss of support at 80 percent of the amount authorized in §503.D.4 for lost wages.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), amended LR 24:328 (February 1998), LR 25:26 (January 1999).

Lamarr Davis
Chairman

9901#042

RULE

**Office of the Governor
Office of Elderly Affairs**

FY 1998-99 State Plan on Aging
(LAC 4:VII.1317)

In accordance with Louisiana Revised Statutes 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) hereby amends LAC 4:VII.1317, the FY 1998-1999 Louisiana State Plan on Aging, effective January 1, 1999. This rule change is in accordance with the Code of Federal Regulation, 45 CFR 1321.19 "Amendments to the State Plan," and 45 CFR 1321.35 "Withdrawal of Area Agency Designation," (Vol. 53. Number 169 pages 33769 and 33770). The purposes of this rule change are:

1. to reverse the designation of the Governor's Office of Elderly Affairs as the Area Agency on Aging for the Planning and Service Area (PSA) of Tensas parish;

2. to designate Tensas parish as a Planning and Service Area;

3. to designate North Delta Regional Planning and Development District, Inc. as the Area Agency on Aging for Tensas PSA.

The FY 1998-1999 Louisiana State Plan on Aging was adopted and published by reference in the September 20, 1997 issue of the Louisiana Register, Volume 23, Number 9. The full text of the State Plan may be obtained by contacting the GOEA at the address below or the Office of the State Register at 1051 North Third Street, Room 512, Baton Rouge, LA 70802, telephone (225) 342-5015.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 13. State Plan on Aging

§1317. Area Agencies on Aging

Area Agency on Aging	Planning and Service Area (Parishes Served)
Allen COA	Allen
Beauregard COA	Beauregard
Bienville COA	Bienville
Bossier COA	Bossier

Caddo COA	Caddo
CAJUN Area Agency on Aging (AAA)	Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion
Calcasieu COA	Calcasieu
Caldwell COA	Caldwell
Cameron COA	Cameron
Capital Area Agency on Aging (AAA)	Ascension, Assumption, East Feliciana, Iberville, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge, West Feliciana
CENLA Area Agency on Aging (AAA)	Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Winn
Claiborne COA	Claiborne
DeSota COA	DeSota
East Baton Rouge COA	East Baton Rouge
Jefferson COA	Jefferson
Jefferson Davis COA	Jefferson Davis
Lafourche COA	Lafourche
Lincoln COA	Lincoln
Livingston COA	Livingston
Madison COA	Madison
Morehouse COA	Morehouse
Natchitoches COA	Natchitoches
North Delta (AAA)	East Carroll, Franklin, Jackson, Richland, Tensas, Union
New Orleans COA	Orleans
Ouachita COA	Ouachita
Plaquemines COA	Plaquemines
Red River COA	Red River
Sabine COA	Sabine
St. Bernard COA	St. Bernard
St. Charles COA	St. Charles
St. James AAA	St. James
St. John COA	St. John
St. Tammany COA	St. Tammany
Terrebonne COA	Terrebonne
Vernon COA	Vernon
Webster COA	Webster
West Carroll COA	West Carroll

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated by the Office of the Governor, Office of Elderly Affairs, LR 23:1146 (September 1997) amended LR 24:1110, (June 1998), LR 25:26 (January 1999).

Paul F. "Pete" Arceneaux, Jr.
Executive Director

9901#075

RULE

Department of Health and Hospitals Board of Medical Examiners

Physician Assistants; Licensing and Practice
(LAC 46:XLV.1501-1519; 4501-4515)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners, pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1270(B) and the Physician Assistants Practice Act, R.S. 37:1360.23(B) and (F), and in accordance with the applicable provisions of the Administrative Procedure Act, has amended its rules governing licensure and practice of physician assistants, LAC 46:XLV, Subpart 2, Chapter 15, §§1501-1519, Subpart 3, Chapter 45, §§4501-4515, to conform such rules to the statutory law providing for the licensing and regulation of practice of physician assistants, as amended by Acts 1997, Number 316, R.S. 37:1360.21-1360.38. The rule amendments are set forth below.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XLV. Medical Profession Subpart 2. Licensing and Certification Chapter 15. Physician Assistants §1501. Scope of Chapter

These rules govern the licensure of physician assistants in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:27 (January 1999).

§1503. Definitions

As used in this Chapter, the following terms shall have the meanings specified:

Advisory Committee—the Louisiana State Board of Medical Examiners Physician Assistants Advisory Committee constituted under R.S. 37:1270.1.

Applicant—a person on whose behalf the board has received an application for licensure as a physician assistant.

Approved Application—all of the information, representations, terms, restrictions, and documents contained

in or submitted with an application upon which the board has issued a physician assistant license.

Board—the Louisiana State Board of Medical Examiners.

Locum Tenens Physician—a qualified physician who will assume the obligations and responsibilities of the supervising physician when the supervising physician is absent or unavailable as a result of illness, medical emergency or other causes.

Physician—a person possessing a current license to practice medicine in the state of Louisiana.

Physician Assistant (PA)—an individual licensed under the Act and this Chapter. As members of the health care team, physician assistants provide a broad range of medical services that would otherwise be provided by physicians.

Physician Assistant—Certified (PA-C)—a physician assistant who is currently certified by the National Commission on Certificate of Physician Assistants (NCCPA) or its successors.

Protocols or Clinical Practice Guidelines—a written set of directives or instructions regarding routine medical conditions, to be followed by a physician assistant in patient care activities. All protocols and clinical practice guidelines shall be written by the supervising directing their use. The Advisory Committee shall periodically publish and disseminate to supervising physicians and all physician assistants, model forms and examples of clinical practice guidelines and protocols. A supervising physician who employs clinical practice guidelines or protocols, shall maintain a written copy of such clinical practice guidelines and protocols in each office location that the supervising physician practices. Such written clinical practice guidelines and protocols shall be available for inspection by authorized representatives of the board.

Supervising Group of Physicians or Supervising Group—a professional partnership, professional corporation, or other professional, physician-owned entity approved by and registered with the board under this Chapter to supervise one or more physician assistants. For the purposes of this definition the term “physician-owned entity” does not mean the type of entity defined in R.S. 37:1360.22(3).

Supervising Physician—a physician approved by and registered with the board under this Chapter to supervise a physician assistant.

Supervision—responsible direction and control, with the supervising physician assuming legal liability for the services rendered by the physician assistant in the course and scope of the physician assistant’s employment. Such supervision shall not be construed in every case to require the physical presence of the supervising physician. However, the supervising physician and physician assistant must have the capability to be in contact with each other by either telephone or other telecommunications device. Supervision shall exist when the supervising physician responsible for the patient gives informed concurrence of the actions of the physician assistant, whether given prior to or after the action, and when a medical treatment plan or action is made in accordance with written clinical practice guidelines or protocols set forth by the supervising physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:27 (January 1999).

§1505. Necessity for License

A. No person may act as or undertake to perform the functions of a physician assistant unless he has in his personal possession a current physician assistant license issued to him under this Chapter.

B. Any person who acts or undertakes to perform the functions of a physician assistant without a current physician assistant license issued under this Chapter shall be deemed to be engaging in the practice of medicine; provided, however, that none of the provisions of this Chapter shall apply to:

1. any person employed by, and acting under the supervision and direction of, any commissioned physician or surgeon of the United States Armed Services, or Public Health Services, practicing in the discharge of his official duties;

2. practitioners of allied health fields, duly licensed, certified, or registered under other laws of this state, when practicing within the scope of such license, certificate or registration;

3. any physician assistant student enrolled in a physician assistant educational program accredited by the Advisory Committee on Allied Health Education and Accreditation or its successor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D)and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:28 (January 1999).

§1507. Qualifications for Licensure

A. To be eligible for licensure under this Chapter, an applicant shall:

1. be at least 20 years of age;

2. be of good moral character;

3. demonstrate his competence to provide patient services under the supervision and direction of a supervising physician by:

a. presenting to the board a valid diploma certifying that the applicant is a graduate of a physician assistant training program accredited by the Committee on Allied Health Education and Accreditation (CAHEA), or its successors, and by presenting or causing to be presented to the board satisfactory evidence that the applicant has successfully passed the national certification examination administered by the National Commission on Certificate of Physician Assistants (NCCPA) or its successors, together with satisfactory documentation of current certification; or

b. presenting to the board a valid, current physician assistant license, certificate or permit issued by any other state of the United States; provided, however, that the board is satisfied that the certificate, license or permit presented was issued upon qualifications and other requirements substantially

equivalent to the qualifications and other requirements set forth in this Chapter;

4. certify that he is mentally and physically able to engage in practice as a physician assistant;

5. not, as of the date of application or the date on which it is considered by the board, be subject to discipline, revocation, suspension, or probation of certification or licensure in any jurisdiction for cause resulting from the applicant's practice as a physician assistant; provided, however, that this qualification may be waived by the board in its sole discretion.

B. The burden of satisfying the board as to the eligibility of the applicant for licensure shall be upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:28 (January 1999).

§1508. Qualifications for Registration as Supervising Physician

A. To be eligible for approval and registration under this Chapter, a proposed supervising physician shall, as of the date of the application:

1. hold an unrestricted license to practice medicine in the state of Louisiana; and

2. have been in the active practice of medicine for not less than three years following the date on which the physician was awarded a doctor of medicine or doctor of osteopathy degree.

B. The burden of satisfying the board as to the eligibility of the proposed supervising physician for approval and registration shall be upon the proposed supervising physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(b)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:202 (March 1996), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:29 (January 1999).

§1509. Application for Licensure; Procedure

A. Application for licensure as a physician assistant must be made upon forms supplied by the board and must include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in §1507 of this Chapter;

2. an affidavit, notarized and properly executed by the applicant, certifying the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

3. payment of a fee of \$155, of which the sum of \$20 will represent a nonrefundable processing fee; and

4. such other information and documentation as the board may require.

B. A personal interview of a physician assistant applicant by a member of the board or its designee may be required by the board, as a condition of licensure, with respect to:

1. an initial application for licensure where discrepancies exist in the application; or

2. an applicant who has been the subject of prior adverse

licensure, certification or registration action in any jurisdiction.

C. All documents required to be submitted to the board must be the original or certified copy thereof. For good cause shown, the board may waive or modify this requirement.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:202 (March 1996), LR 25:29 (January 1999).

§1510. Application for Registration as Supervising Physician; Procedure

A. Application for approval and registration as a supervising physician must be made upon forms supplied by the board and must include:

1. a detailed description of the proposed supervising physician's professional background and specialty, if any; the nature and scope of his medical practice; the geographic and demographic characteristics of his medical practice; the address or location of the primary office where the physician assistant is to practice and be supervised;

2. a description of the way in which the physician assistant will be utilized as a physician assistant, and the methods to be used by the proposed supervising physician to insure responsible direction and control of the activities of the physician assistant;

3. a statement that the physician will exercise supervision over the physician assistant in accordance with any rules and regulations adopted by the board and that the physician will retain professional and legal responsibility for the care rendered by the physician assistant;

4. an affidavit, notarized and properly executed by the proposed supervising physician, certifying the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

5. payment of a one-time fee of \$75, of which the sum of \$20 will represent a nonrefundable processing fee; and

6. such other information and documentation as the board may require.

B. A physician seeking to supervise a physician assistant shall be required to appear before the board upon his notification to the board of his intention to supervise a physician assistant:

1. upon a first notification to the board of the physician's intention to supervise a physician's assistant if the board finds discrepancies in the physician's application; or

2. if the physician has been the subject of prior adverse licensure, certification or registration action in any jurisdiction.

C. All documents required to be submitted to the board

must be the original or certified copy thereof. For good cause shown, the board may waive or modify this requirement.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Any physician seeking to supervise a physician assistant as either primary supervising physician or as locum tenens must register with the board as provided herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:202 (March 1996), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:29 (January 1999).

§1511. Physician Assistant Advisory Committee

A. The advisory committee shall be authorized to advise the board on all matters specifically dealing with licensing or disciplining of physician assistants or the drafting and promulgating of regulations relating to physician assistants. The advisory committee shall also review and make recommendations to the board on applications for licensure as physician assistants. The board shall not act on any matter relating to physician assistants without first consulting with the advisory committee.

B. The advisory committee shall meet not less than twice each calendar year, or more frequently as may be deemed necessary or appropriate by its chairman or a majority of the members of the advisory committee, which meetings shall be at the call of and at such time and place as may be noticed by its chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:203 (March 1996), LR 25:30 (January 1999).

§1513. Issuance of License; Working Permit

A. If the qualifications, requirements and procedures of §§1507 and 1509 are met to the satisfaction of the board, the board shall license the applicant as a physician assistant.

B. The board may grant a working permit (temporary license), valid and effective for one year but renewable for one additional year, to an applicant who otherwise meets the qualifications for licensure, except that the applicant has not yet taken or is awaiting the results of the national certification examination.

C. A working permit shall expire and become null and void on the date on which:

1. the results of the applicant's national certifying examination are available, and the applicant has failed to pass such examination; or

2. the board takes final action on the applicant's application for licensure.

D. Every license or permit issued under this Chapter is

expressly subject to the terms, restrictions and limitations set forth in the approved application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:203 (March 1996), LR 25:30 (January 1999).

§1514. Issuance of Approval as Supervising Physician

A. If all the qualifications, requirements and procedures of §§1508 and 1510 are met to the satisfaction of the board, the board shall approve and register a physician as a supervising physician.

B. Although a physician must notify the board each time the physician intends to undertake the supervision of a physician assistant, registration with the board is only required once. Notification of supervision of a new physician assistant by a registered supervising physician shall be deemed given to the board upon the physician assistant's filing with the board a notice of intent to practice in accordance with §1517 of this Chapter. The board shall maintain a list of physicians who are registered to supervise physician assistants. Each registered physician is responsible for updating the board should any of the information required and submitted in accordance with §§1508 and 1510 change after the physician has become registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D), (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:203 (March 1996), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:30 (January 1999).

§1515. Consent to Examination; Waiver of Privileges; Examining Committee of Physicians

A. An applicant or physician assistant shall, by applying for or accepting licensure under this Chapter, be deemed to have given his consent to submit to physical or mental examinations when so directed by the board and to waive all objections as to the disclosure or admissibility of findings, reports, or recommendations pertaining thereto on the grounds of privileged communication or other personal privileges provided by law.

B. The board may appoint or designate an examining committee of physicians, possessing appropriate qualifications, to conduct physical and mental examinations of a physician assistant, to otherwise inquire into the physician assistant's fitness and ability to provide services with reasonable skill and safety to patients, and to submit advisory reports and recommendations to the board, when the board has reasonable cause to believe that the fitness and ability of such physician assistant are affected by mental illness or deficiency or physical illness, including but not limited to deterioration through the aging process or the loss of motor skills, and/or excessive use or abuse of drugs, including alcohol.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978),

amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 25:30 (January 1999).

§1517. Expiration of Licensure; Renewals; Modification; Notification of Intent to Practice

A. Initial licensure shall expire as of the last day of the year in which such license was issued.

B. Notwithstanding the provisions of §1517.A, every license issued under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born. Every license issued under this Chapter shall be renewed on or before December 31, 1998 for the year 1999, as well as through the first day of the month in which the licensee was born in the year 2000, and each year thereafter, by submitting to the board an application for renewal upon forms supplied by the board, together with satisfactory documentation of current certification by the National Commission on Certificate of Physicians Assistants. Each application for renewal shall be accompanied by a fee of \$100. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. A physician assistant licensed in this state, prior to initiating practice, shall submit, on forms approved by the board, notification of such intent to practice. Such notification shall be deemed effective as of the date received by the board, subject to final approval at the next board meeting and shall include:

1. the name, business address, and telephone number of the supervising physician or supervising group of physicians and any designated locum tenens; and

2. the name, business address, and telephone number of the physician assistant.

D. Licensure shall not terminate upon termination of a relationship between a physician assistant and a supervising physician provided that:

1. the physician assistant ceases to practice as a physician assistant until such time as he enters into a supervision relationship with another supervising physician or supervising group of physicians registered with the board; and

2. the physician assistant notifies the board of any changes in or additions to his supervising physicians within 15 days of the date of such change or addition.

E. The board may, in its discretion, at the time of and upon application for renewal of licensure, require a review of the current accuracy of the information provided in the approved application and of the physician assistant's performance thereunder and may modify or restrict any licensure in accordance with the findings of such review.

F. A physician assistant may elect to have his license placed on inactive status by the board by giving notice to the board in writing, on forms prescribed by the board, of his election of inactive status. A physician assistant whose license is on inactive status shall be excused from payment of renewal fees and shall not practice as a physician assistant in the state of Louisiana. Any licensee who engages in practice while his or her license is on inactive status shall be deemed to be engaged in practice without a license and shall be subject to

administrative sanction under R.S. 37:1360.34 or to judicial injunction pursuant to R.S. 37:1360.37. A physician assistant on inactive status may be reinstated to active status upon payment of the current renewal fees and satisfaction of other applicable qualifications for renewal prescribed by §1517.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 24:1498 (August 98), LR 25:31 (January 1999).

Subpart 3. Practice

Chapter 45. Physician Assistants

§4501. Supervision by Supervising Group of Physicians

A. A physician assistant may be supervised by a supervising group of physicians provided that, a member, partner or employee of the supervising group is designated as the supervising physician, and such supervising physician meets and satisfies all of the qualifications, procedures and other requirements of this Chapter to the same extent as if the physician assistant were supervised individually by the supervising physician.

B. With respect to any physician assistant supervised by a supervising group of physicians, all duties, obligations, and responsibilities imposed by statute or by the rules of this Chapter on the supervising physician shall be equally and independently assumed and borne by the designated supervising physician and the supervising group.

C. When a physician assistant is supervised by a supervising group of physicians, the supervising physician may designate any other member, partner or employee of the supervising group as locum tenens physician, provided that such designee meets the qualifications of LAC 46:XLV.1508 and 1510 and the designation otherwise complies with said Sections. Any physician serving as a locum tenens physician must be identified in the physician assistant's notice of intent to practice as provided in §1517.

D. A physician may obtain approval from the board to be the primary supervising physician for up to two physician assistants; however, nothing shall prohibit a qualified supervising physician from acting as supervising physician on a locum tenens basis for as many as two (2) additional physician assistants in addition to the two physician assistants for whom he is the primary supervising physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:31 (January 1999).

§4503. Compensation

A. A physician assistant may receive compensation, salary or wages only from his or her employer and may neither render a statement for service directly to any patient nor receive any payment, compensation or fee for services directly from any patient.

B. Nothing in this Section shall prohibit charges from being submitted to any governmental or private payor for services rendered by a physician assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:31 (January 1999).

§4505. Services Performed by Physician Assistants

A. The practice of a physician assistant shall include the performance of medical services that are delegated by the supervising physician and are within the scope of the physician assistant's education, training, and licensure.

B. In accordance with a written clinical practice guidelines or protocols medical services rendered by a physician assistant may include: screening patients to determine need for medical attention; eliciting patient histories; reviewing patient records to determine health status; performing physical examinations; recording pertinent patient data; performing developmental screening examinations on children; making preliminary decisions regarding data gathering and appropriate management and treatment of patients being seen for initial evaluation of a problem or follow-up evaluation of a previously diagnosed and stabilized condition; making appropriate referrals; preparing patient summaries; requesting initial laboratory studies; collecting specimens for blood, urine and stool analyses; performing urine analyses, blood counts and other laboratory procedures; identifying normal and abnormal findings on history, physical examinations and laboratory studies; initiating appropriate evaluation and emergency management for emergency situations such as cardiac arrest, respiratory distress, burns and hemorrhage; performing clinical procedures such as venipuncture, intradermal testing, electrocardiography, care and suturing of wounds and lacerations, casting and splinting, control of external hemorrhage, application of dressings and bandages, administration of medications, intravenous fluids, and transfusion of blood or blood components, removal of superficial foreign bodies, cardiopulmonary resuscitation, audiometry screening, visual screening, aseptic and isolation techniques; providing counseling and instruction regarding common patient problems; monitoring the effectiveness of therapeutic intervention; assisting in surgery; and signing for receipt of medical supplies or devices that are delivered to the supervising physician or supervising physician group. This list is illustrative only, and does not constitute the limits or parameters of the physician assistant's practice.

C. A physician assistant who performs the suturing of lacerations, may undertake to do so with respect to a particular patient, only when specifically delegated to do so by the supervising physician.

D. A physician assistant may administer medication to a patient, or transmit orally, electronically, or in writing on a patient's record, a prescription from his or her supervising physician to a person who may lawfully furnish such medication or medical device. The supervising physician's prescription, transmitted by the physician assistant, for any patient cared for by the physician assistant, shall be based on a patient-specific order by the supervising physician. At the direction and under the supervision of the supervising physician, a physician assistant may hand deliver to a patient

of the supervising physician a properly labeled prescription drug prepackaged by a physician, a manufacturer or a pharmacist. In any case, the medical record of any patient cared for by the physician assistant for whom the physician's prescription has been transmitted or carried out shall be reviewed, countersigned and dated by a supervising physician within 72 hours, or as otherwise required by law.

E. A physician assistant shall not:

1. practice without supervision, as defined by §1503, except in life-threatening emergencies;

2. issue prescriptions for any medication and/or complete and issue prescription blanks previously signed by any physician;

3. order for administration or administer any medication to any patient except pursuant to the specific order or direction of his or her supervising physician;

4. act as or engage in the functions of a physician assistant other than on the direction and under the direction and supervision of his supervising physician at the location or locations specified in physician assistant's notice of practice location to the board, except in the following situations:

a. if the physician assistant is acting as assistant in life-threatening emergencies and in situations such as man-made and natural disaster or a physician emergency relief efforts;

b. if the physician assistant is volunteering his services to a non-profit charitable organization, receives no compensation for such services, and is performing such services under the supervision and in the presence of a licensed physician.

5. act as or engage in the functions of a physician assistant when the supervising physician and the physician assistant do not have the capability to be in contact with each other by telephone or other telecommunication device; or

6. identify himself, hold himself out to the public, or permit any other person to identify him, as "doctor," "medical doctor," "doctor of medicine" or "physician" or render any service to a patient unless the physician assistant has clearly identified himself as a physician assistant by any method reasonably calculated to advise the patient that the physician assistant is not a physician licensed to practice medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:32 (January 1999).

§4507. Authority and Limitations of Supervising Physician

A. The supervising physician is responsible for the responsible supervision, control, and direction of the physician assistant and retains responsibility to the patient for the competence and performance of the physician assistant.

B. A supervising physician may not supervise more than two physician assistants at the same time; provided, however, that a physician may be approved to act as a supervising physician on a locum tenens basis for physician assistants in addition to the physician assistants for whom he or she is the primary supervising physician, provided that such physician

shall not act as supervising physician for more than four physician assistants at any one time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:205 (March 1996), LR 25:32 (January 1999).

§4509. Designation of Locum Tenens

A. Notwithstanding other provisions of this Chapter, the board may permit a supervising Physician to designate as locum tenens a physician who will assume the obligations and responsibilities of the supervising physician for up to six (6) months when the supervising physician is absent or unavailable as a result of illness, medical emergency or other similar disabling causes as the board may define.

B. To be eligible for designation as locum tenens, a physician shall:

1. meet the qualifications of LAC 46:XLV.1508;
2. actively practice in the same specialty as the supervising physician or in a reasonably related field of medicine; and
3. be registered as a supervising physician as provided in LAC 46:XLV.1510 and 1514.

C. Designation of a locum tenens must include:

1. a description of the locum tenens' professional background and specialty, if any;
2. the address of all office locations used by the locum tenens;
3. a detailed description of the specific circumstances under which the locum tenens will act for and in place of the supervising physician and the manner in which the locum tenens will supervise, direct and control the physician assistant; and
4. a certificate, signed by the designated locum tenens, acknowledging that he has read and understands the rules of this Chapter and that he will assume the duties, obligations and responsibilities of the supervising physician under the circumstances specified in the application.

D. The board may, in its discretion, refuse to approve the use of a locum tenens, or it may restrict or otherwise modify the specified circumstances under which the locum tenens would be authorized to act for and in place of the supervising physician.

E. A physician assistant shall not, while acting under the direction and supervision of an approved locum tenens designated by the supervising physician, attend or otherwise provide any services for or with respect to any patient other than a patient of the supervising physician or supervising group.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:205 (March 1996), LR 25:33 (January 1999).

§4511. Mutual Obligations and Responsibilities

A. The physician assistant and supervising physician shall:

1. within 15 days notify the board, in writing, of:
 - a. the termination of the physician assistant's supervision relationship with a supervising physician or supervising group of physicians;
 - b. the retirement or withdrawal from active practice by the supervising physician; and
 - c. any other change in the employment, functions, activities or services of the physician assistant or the manner or location of their performance;
2. comply with reasonable requests by the board for personal appearances and/or information relative to the functions, activities and performance of the physician assistant and supervising physician;
3. insure that each individual to whom the physician assistant provides patient services is expressly advised and understands that the physician assistant is not a licensed physician;
4. insure that, with respect to each direct patient encounter, all activities, functions, services and treatment measures of the physician assistant are properly documented in written form by the physician assistant and that each such entry is countersigned by the supervising physician within 24 hours with respect to inpatients in an acute care setting and patients in a hospital emergency department; within 48 hours with respect to patients of nursing homes and other sub-acute settings and within 72 hours in all other cases.

B. The physician assistant and supervising physician shall bear equal and mutual responsibility for producing the following documentation upon an official inspection conducted by a duly authorized representative of the board:

1. a copy of the physician assistant's notice of intent to practice, listing all physicians authorized and designated to supervise the physician assistant; and
2. any written practice agreement defining the scope of practice of the physician assistant including:
 - a. any clinical practice guidelines prescribed by the supervising physician;
 - b. the medical procedures which the supervising physician has authorized the physician assistant to perform;
 - c. any group practice arrangements; and
 - d. a list of the locations where the physician assistant may be working at any given time.
3. any written practice agreement shall be annually reviewed, updated as appropriate, and signed by the physician assistant and supervising physician.

C. The physician assistant and the supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in the rules of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:206 (March 1996), LR 25:33 (January 1999).

§4513. Causes for Nonissuance, Suspension, Revocation or Restrictions; Fines, Reinstatement

A. The board may refuse to issue, or may suspend, revoke or impose probationary or other restrictions on, any license

issued under this Chapter, or issue a private or public reprimand, for the following causes:

1. conviction of or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of the United States or of any state;

2. conviction of or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with practice as a physician assistant;

3. fraud, deceit, or perjury in obtaining any license or permit issued under this Chapter;

4. providing false testimony before the board;

5. habitual or recurring drunkenness;

6. habitual or recurring use of morphine, opium, cocaine, drugs having a similar effect, or other substances which may induce physiological or psychological dependence;

7. aiding, abetting, or assisting any physician in any act or course of conduct enumerated in Louisiana Revised Statutes, Title 37, Section 1285;

8. efforts to deceive or defraud the public;

9. incompetency;

10. immoral conduct in exercising the privileges provided for by licensure under this Chapter;

11. persistent violation of federal or state laws relative to control of social diseases;

12. interdiction or commitment by due process of law;

13. inability to perform or function as a physician assistant with reasonable skill or safety to patients because of medical illness or deficiency; physical illness, including but not limited to deterioration through the aging process or loss of motor skills; and/or excessive use or abuse of drugs, including alcohol;

14. refusing to submit to the examination and inquiry of an examining committee of physicians appointed or designated by the board to inquire into the physician assistant's physical and mental fitness and ability to provide patient services with reasonable skill and safety;

15. the refusal of the licensing authority of another state to issue or renew a license, permit or certificate to act as a physician assistant in that state, or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts the functions, activities or services of the physician assistant in that state; or

16. violation of any provision of this Chapter, or of rules or regulations of the board or statute pertaining to physician assistants.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any license suspended or revoked hereunder, require the physician assistant and/or the supervising physician group to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees, and to pay a fine not to exceed the sum of \$5,000.

C. Any license suspended, revoked or otherwise restricted by the board may be reinstated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1107 (November 1991), LR 22:206 (March 1996), LR 25:33 (January 1999).

Delmar Rorison
Executive Director

9901#064

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Retail Food Stores/Markets (Chapter XXII)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq, the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4A(1) and R.S. 40:5, has updated and revised Chapter XXII of the Louisiana State Sanitary Code to be in accordance with current Food and Drug Administration (FDA) Food Code Guidelines as follows.

Sanitary Code

Chapter XXII. Retail Food Stores/Markets

22:01 Definition: Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

a_w—water activity.

Base of Operation/Commissary—catering establishment, restaurant, or any other properly equipped place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

Beverage—liquid for drinking, including water.

Bulk Food—processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn.

Certification Number—a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

C.F.R.—Code of Federal Regulations.

CIP—clean in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surface that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

Code—the word *Code* when used alone shall mean the regulations contained in this Sanitary Code, subsequent amendments thereto, or any emergency rule or regulation which the administrative authority having jurisdiction may lawfully adopt.

Convenience Store—a retail food store which is usually easily accessible and deals mostly with prepackaged food products.

Comminuted—reduced in size by methods including chopping, flaking, grinding, or mincing.

Critical Items—a provision of this code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation, such as, but not limited to, a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water sources, sewage backup, severe insect and rodent infestation, and chemical contamination.

Deli/Delicatessen—a food establishment which generally serves ready-to-eat food products such as sandwiches, cold cuts, cheeses, prepared salads and some prepared hot foods

Department—the Department of Health and Hospitals and Secretary means the Secretary thereof.

EPA—Environmental Protection Agency.

Easily Cleanable—surfaces that are readily accessible and made of such materials, finish and so fabricated that residue may be effectively removed by normal cleaning methods.

Employee—the permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a retail food store or market.

Equipment—an article that is used in the operation of a food store or market such as a reach-in or walk-in refrigerator or freezer, grinder, ice maker, meat block, mixer, oven, scale, sink, slicer, stove, table, thermometers, vending machine, or warewashing machine.

FDA—Food and Drug Administration.

Food—raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

Food Contact Surfaces—a surface of equipment or a utensil with which food normally comes in contact with, or a surface of equipment or a utensil from which food may drain, drip or splash into a food or onto a surface normally in contact with food.

Food Establishment—an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption. The term includes restaurants, cafeterias, caterers, delis, bars, lounges, or any other facility that prepares food for individual service or for a group of people, whether consumption is on or off the premises and regardless if there is a charge for the food. The term does not include private homes where food is prepared or served for individual family consumption.

Garbage—the putrescible components of refuse which are subject to spoilage, rot, or decomposition. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

HACCP—Hazard Analysis Critical Control Point.

HACCP Plan—a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

Hazard—a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

Hermetically Sealed Container—a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

Injected—manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat such as with juices which may be referred to as "injecting," "pinning," or "stitch pumping".

Itinerant Retail Food Store/Market—any fixed or mobile retail food store/market which operates on a temporary or seasonal basis.

Interpretation—this chapter shall be interpreted and applied to promote its underlying purpose of protecting the public health.

Kitchenware—food preparation and storage utensils.

Label—the principal display or displays of written, printed, or graphic matter upon any food or the immediate container thereof, or upon the outside container or wrapper, if any, of the retail package of any food.

Labeling—includes all labels and other written, printed and graphic matter, in any form whatsoever, accompanying any food.

Law—applicable local, state, and federal statutes, regulations, and ordinances.

Market—a retail food store or food market which stores, prepares, packages, serves, vends or otherwise provides food products such as beverages, eggs, meat, milk, produce, seafood or other similar products.

Microorganisms—yeasts, molds, fungi, bacteria, parasites, viruses and includes, but is not limited to, species having public health significance. The term "undesirable Microorganisms" includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated within the meaning of the Food, Drug and Cosmetic Laws and Regulations.

Mobile Food Unit—a vehicle-mounted retail food store/market designed to be readily movable.

Noncritical—items means all provisions in this code that are not classified as critical items.

Offal—waste parts, especially of a butchered animal, including but not limited to bones, cartilage, fatty tissue and gristle.

Packaged—bottled, canned, cartoned, securely bagged, or securely wrapped.

Permit—the document issued by the Department that authorizes a person to operate retail food store/market.

Person—an association, a corporation, individual, partnership, other legal entity, governmental subdivision or agency.

Person in Charge—the individual present at a retail food store/market who is responsible for the operation at the time of inspection.

Pest—refers to any objectionable animal or insect including, but not limited to, birds, roaches, rodents, flies, and larvae.

pH—the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 alkalinity. The value for pure distilled water is 7, which is considered neutral.

Potable Water—is water having bacteriological, physical and chemical qualities that make it safe and suitable for use by people for drinking, cooking or washing.

Potentially Hazardous Food—a food that is natural or synthetic and is in a form capable of supporting:

- a. the rapid and progressive growth of infectious or toxigenic microorganism;
- b. the growth and toxin production of *Clostridium botulinum*; or
- c. in shell eggs, the growth of *Salmonella enteritidis*.

Potentially hazardous food includes:

- a. an animal food (a food of animal origin) that is raw or heat-treated;
- b. a food of plant origin that is heat-treated or consists of raw seed sprouts;
- c. cut melons; and
- d. garlic and oil mixtures.

Potentially hazardous food does not include:

- a. an air-cooled hard-boiled egg with shell intact;
- b. a food with a water activity (a_w) value of 0.85 or less;
- c. a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24°C (75°F);
- d. a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; and
- e. a food for which a variance granted by the regulatory authority is based upon laboratory evidence demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of *C. botulinum* cannot occur.

p.p.m.—parts per million.

Ready-to-Eat Food—food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form.

Reduced Oxygen Packaging—the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen; displacing the oxygen with another gas or combination of gases; or otherwise controlling the oxygen content in a package to a level below the normally found in the surrounding atmosphere, which is 21 percent oxygen. This may include methods referred to as altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging including sous vide.

Refuse—any garbage, rubbish, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility. It also includes other discarded material such as solid, liquid, semi-solid, or contained gaseous material

resulting from either industrial, commercial, mining, or agricultural operations, or from community activities. It does not include solid or dissolved material in domestic sewage, irrigation return flow, industrial discharges which are point sources, or radioactive wastes.

Regulatory Authority—the local, state, or federal enforcement body or authorized representative having jurisdiction over the retail food store/market.

Retail Food Store—all types of food markets including convenience, fixed, mobile and temporary food stores. These may also be referred to as groceries. Larger retail food stores may also include bakeries and delis.

Rubbish—includes all non-putrescible waste matter, except ashes, from any public or private establishments, institution, or residence. It also includes construction and demolition wastes.

Sanitization—the application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, yield a reduction of 5 logs, which is equal to a 99.999 percent reduction, of representative disease microorganisms of public health importance.

Seafood—includes, but is not limited to, fish, shellfish edible crustaceans, marine and freshwater animal food products.

Sealed—free of cracks or other openings that allow the entry or passage of moisture.

Seasonal—a recurrent period that is characterized by certain occupation, festivities, or crops; any period of time that is legally available to the hunter, fisherman, or trapper. These seasons are legally set by government regulatory agencies such as State Wildlife and Fisheries, State Department of Agriculture or other such agencies.

Shall—refers to mandatory requirements.

Should or *May*—refers to recommended or advisory procedures or equipment.

Single-Service Articles—tableware, carry-out utensils, and other items such as bags, container's placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use.

Single-Use Articles—utensils and bulk food container designed and constructed to be used once and discarded. *Single-use articles* includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs, or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans.

Smoked Food—food which has been colored or flavored by natural or liquid smoke.

State Health Officer—the legally appointed and/or acting State Health Officer of the health authority having jurisdiction over the entire State of Louisiana, and includes his/her duly authorized representative, except where the context of these regulations, or pertinent statutory language indicates the reference is to the State Health Officer acting personally. Should legislative action either change the term *State Health Officer* or transfer his/her authority, the successor shall assume the functions delegated to the *State Health Officer* in this Sanitary Code.

Tableware—eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, tumblers; and plates.

Temperature Measuring Service—a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

Temporary Retail Food Store/Market—a fixed or mobile retail food store/market which operates for a period of time no more than twenty-one consecutive days in conjunction with a single event or celebration.

Utensil—a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multi use, single-service, or single-use; gloves used in contact with food; and food temperature measuring devices.

Warewashing—the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

Water Activity—(a_w) is a measure of the free moisture in a food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

Wholesome—food which is in sound conditions, clean, free from adulteration or contamination and is otherwise suitable for human consumption.

General Requirements

22:02-1 General: Every retail food store/market which is hereafter constructed or extensively remodeled, and every existing retail food store/market, shall comply with the requirements of this Code.

22:02-2 Submission of Plans: Whenever a retail food store/market is constructed or extensively remodeled, properly prepared plans and specifications for such construction or remodeling, shall be submitted to the State Health Officer for review and approval before construction or remodeling is begun. The plans and specifications shall indicate the proposed type of operation, anticipated volume and types of food products to be stored, prepared, packaged and/or served along with the proposed layout of the facility, mechanical plans, construction materials and the types and location and specifications of all fixed and mobile equipment to be used in the establishment.

22:02-3 Preoperational Inspection: The State Health Officer shall conduct one (1) or more preoperational inspections to verify that the retail food store/market is constructed and equipped in accordance with the approved plans and is in compliance with all provisions of the State Sanitary Code.

22:02-4 HACCP Plan: If a retail food store/market wants to submit a HACCP plan it should contain:

A. a categorization of the types of *Potentially Hazardous Foods* that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the department;

B. a flow diagram by specific food or category type identifying *Critical Control Points* and providing information on the following:

1. ingredients, materials, and equipment used in the preparation of that food; and

2. formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

C. a supervisory training plan that addresses the food safety issues of concern;

D. a statement of standard operating procedures for the plan under consideration including clearly identifying:

1. each Critical Control Point;

2. the Critical Limits for each Critical Control Point;

3. the method and frequency for monitoring and controlling each Critical Control Point by the employee designated by the person in charge;

4. the method and frequency for the person in charge to routinely verify that the employee is following standard operating procedures and monitoring Critical Control Points;

5. action to be taken by the person in charge if the Critical Limits for each Critical Control Point are not met; and

6. records to be maintained by the person in charge to demonstrate that the HACCP Plan is properly operated and managed;

E. additional scientific data or other information, as required by the Department supporting the determination that food safety is not compromised by the proposal.

Permits

22:03 General: No person shall operate a retail food store/market of any type without first having received a valid permit to operate from the State Health Officer. Permits are not transferable. A valid permit shall be posted in every retail food store/market.

Issuance of Permits

22:04-1 The owner, President of the Corporation, or such other officer duly delegated by the corporation or partnership shall make written application for a permit to operate to the State Health Officer.

22:04-2 Prior to approval of an application for a permit, a preoperational inspection shall be made as described in 22:02-2 to determine compliance with all provisions of the State Sanitary Code.

22:04-3 The State Health Officer shall issue a permit to the applicant if an inspection reveals that the proposed retail food store/market complies with all the provisions of the State Sanitary Code.

Employee Health

22:05 General: All employees shall meet the requirements of Chapter I and Chapter II of the State Sanitary Code. The person in charge shall be responsible for complying with Chapter I, Section 1:08-1.

Personal Cleanliness

22:06-1 Handwashing: Employees shall thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, during work as often as necessary to keep them clean, and after smoking, using tobacco, eating, drinking, coughing, sneezing, handling raw food, or using the toilet.

22:06-2 Fingernails: Employees shall keep their fingernails clean and trimmed.

22:06-3 Jewelry: Employees may not wear jewelry on their arms and hands while preparing food. This does not apply to a plain ring such as a wedding band.

22:06-4 Outer Clothing: Employees shall wear clean outer clothing.

Hygienic Practices

22:07-1 Eating and Drinking: Employees shall eat and

drink only in designated areas where the contamination of exposed food, equipment, utensils or other items needing protection can not result. An employee may drink while preparing food from a closed beverage container if the container is handled properly to prevent contamination.

22:07-2 Using Tobacco: Employees shall not use tobacco in any form while preparing or serving food. Employees shall use tobacco only in designated areas such as described in section 22:32.

22:07-3 Hair Restraints: Employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food, equipment, utensils and other items needing protection. This does not apply to employees such as counter staff who only serve beverages and wrapped or packaged food items.

22:07-4 Food Contamination: Employees experiencing persistent sneezing, coughing or a runny nose may not work with exposed food, equipment, utensils or other items needing protection.

22:07-5 Handling: Employees shall handle soiled tableware in a manner to prevent the contamination of clean tableware by their hands. Employees may not care for or handle animals such as patrol dogs, support animals, or pets while preparing or serving food. Employees with support animals may care for their animals if they wash their hands in accordance with Section 22:06-1.

Food Supplies

22:08-1 General: All food shall be safe, unadulterated and honestly presented.

22:08-2 Source: Food shall be obtained from sources that comply with law. Unless exempted by law, food prepared in a private home may not be used or offered for human consumption in retail food stores and food markets.

22:08-3 Package: Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

22:08-4 Labeling: Packaged food shall be labeled as specified by law. All bulk food storage containers shall be properly labeled according to law.

22:08-5.1 Raw Shellfish: All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording:

There may be a risk associated with consuming raw shellfish as is the case with other raw protein products. If you suffer from chronic illness of the liver, stomach or blood or have other immune disorder, you should eat these products fully cooked.

In addition, this message must appear on the principal display panel or top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels. In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters:

There may be a risk associated with consuming raw shellfish as is the case with other raw protein products. If you suffer from chronic illness of the liver, stomach or blood or have other immune disorder, you should eat these products fully cooked.

22:08-5.2 Exemption: Establishments that exclusively serve raw molluscan shellfish that have been subjected to a process recognized by the State Health Officer as being effective in reducing the bacteria *Vibrio vulnificus* to non-detectable levels may apply for an exemption from the mandatory consumer information notification requirement. Establishments interested in obtaining an exemption shall certify, in writing, to the State Health Officer, that it shall use exclusively for raw consumption only molluscan shellfish that have been subjected to the approved process. Upon receipt of that communication, the State Health Officer shall confirm the establishment as being exempt from the requirement of displaying the consumer information message. The establishment's certification must be sent to the State Health Officer at the following address:

Louisiana Office of Public Health
P. O. Box 60630
New Orleans, Louisiana 70160

22:08-6 Hermetically Sealed Containers: Food in hermetically sealed containers shall be obtained from a licensed and/or regulated food processing plant.

22:08-7 Milk: Fluid, frozen, dry milk and milk products shall be obtained from sources with Grade A Standards as specified in law and Chapter VII and Chapter VIII of this Code.

22:08-8 Seafood: Fish, shellfish, edible crustaceans, marine and fresh water animal food products shall be obtained from sources according to law and Chapter IX of this Code. Shell stock tags shall be retained for 90 days.

22:08-9 Eggs

A. Shell eggs shall be received clean and sound according to law.

B. Liquid, frozen and dry egg products shall be obtained pasteurized.

22:08-10 Poultry and Meats: Poultry and meat products shall be obtained from sources according to law.

22:08-11 Game Animals

A. Game animals may be received for sale if they are under a routine inspection program conducted by a regulatory authority or raised, slaughtered, and processed under a voluntary inspection program by a regulatory authority.

B. If retail markets are requested by an individual to process wild deer meat, they must process this meat in accordance with the guidelines established by the Department.

Temperature

22:09-1 Temperature Control: Except as specified in section 22:09-2, all refrigerated potentially hazardous foods shall be received at a temperature of 41°F (5°C) or below.

22:09-2 Exceptions: A food may be received at a temperature specified in laws governing its distribution.

22:09-3 Cooking/Reheating: Foods shall be cooked to heat all parts of the food to temperature and for a time that are at least:

A. 165°F (74°C) or above for 15 seconds for wildgame, poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, or stuffing containing fish, meat or poultry.

B. 155°F (68°C) or above for 15 seconds for pork, comminuted fish, comminuted meats and injected meats.

C. 145°F (63°C) or above for 15 seconds for all other foods.

D. All potentially hazardous food that is cooked, cooled, and reheated for hot holding or serving shall be reheated so that all parts of the food reach a temperature of at least 165°F (74°C) for 15 seconds.

E. Microwave - Foods cooked or reheated in microwave ovens shall be rotated and stirred throughout to compensate for uneven distribution of heat and heated an additional 25°F (14°C) above the temperatures required in 22:09-3.

F. Beef roast shall be cooked to a minimum internal temperature of 130°F (54°C) or to a temperature and time that will cook all parts of the roast as required by law.

G. Raw, marinated fish, raw molluscan shellfish, steak tartare, or partially or lightly cooked food, shall be served according to law.

22:09-4 Hot Holding Temperatures: Food stored for hot holding and service shall be held at a temperature of 140°F (60°C) or higher with the exception of roast beef. If roast beef is cooked in accordance with 22:09-3(F) the minimum hot holding temperature shall be 130°F (54°C).

22:09-5 Cold Holding Temperatures: Food stored for cold holding and service shall be held at a temperature of 41°F (5°C) or below.

22:09-6 Cooling Methods: Cooling of food shall be accomplished within 4 hours by using one or more of the following methods:

- A. placing the food in shallow pans;
- B. separating the food into smaller or thinner portions;
- C. using rapid cooling equipment;
- D. stirring the food in a container placed in an ice water bath;
- E. using containers that facilitate heat transfer;
- F. adding ice as an ingredient;
- G. other approved effective methods.

22:09-7 Frozen Food: Stored frozen food should be stored at a temperature of 0°F or below and shall be maintained frozen.

22:09-8 Thawing: Potentially hazardous food shall be thawed by one of the following methods:

- A. under refrigeration that maintain the food temperature at 41°F (5°C) or below;
- B. completely submerged under potable running water at a temperature of 70°F (21°C) or below with sufficient water velocity to agitate and float off loose particles in an overflow;
- C. for a period of time that does not allow thawed portions to rise above 41°F (5°C);
- D. as part of the conventional cooking process or thawed in microwave oven and immediately transferred to conventional cooking equipment with no interruption in the process.

22:09-9 Time as a Public Health Control: Time only, rather than time in conjunction with temperature, may be used as a public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption if:

A. the food is marked or otherwise identified with the time within which it shall be cooked, served or discarded;

B. the food is served or discarded within 4 hours from the point in time when the food is removed from temperature control;

C. food in unmarked containers or packages, or for which the time expires, is discarded; and

D. written procedures are maintained in the retail food store/market or food establishment and made available to the Department upon request.

22:09-10 Temperature Measuring Devices: (Thermometers): Temperature measuring devices shall be provided and used to measure:

A. food temperature of potentially hazardous food on a device scaled in Fahrenheit accurate to +/- 2°F or Celsius accurate to +/- 1°C.

B. ambient air temperature of all equipment used to hold potentially hazardous food on a device scaled in Fahrenheit accurate to +/- 3°F. or Celsius accurate to +/- 1.5°C.

Food Storage

22:10-1 Food shall be protected from contamination by storing the food:

- A. in a clean, dry location;
 - B. where it is not exposed to splash, dust, or other contamination; and
 - C. at least 6 inches (15cm) above the floor.
- 22:10-2** Food may not be stored:
- A. in locker rooms;
 - B. in toilet rooms;
 - C. in dressing rooms;
 - D. in garbage rooms;
 - E. in mechanical rooms;
 - F. under sewer lines;
 - G. under water lines which may leak, including lines on which water has condensed;
 - H. under open stairwells; or
 - I. in vehicles used to transfer or hold any type of waste;
 - J. under other sources of contamination.

22:10-3 Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water through the packaging, wrapping, or container because of its positioning in the ice or water. Unpackaged food may only be stored in direct contact with drained ice; except:

- A. whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water;
- B. raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service or sale.

Food Preparation

22:11-1 General: During preparation, unpackaged food shall be protected from environmental sources of contamination. Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served or offered for human consumption in ready to eat form except that while, raw fruits and vegetables that are intended for washing by the consumer before consumption.

22:11-2 Molluscan Shellfish: Raw shellfish shall be handled in accordance with Chapter IX of the Code and may not be prepackaged at retail markets.

22:11-3 Cross Contamination: Cross contamination shall be prevented by:

- A. separating raw animal foods from ready to eat foods;
- B. separating raw unprepared vegetables from ready to eat potentially hazardous foods; or
- C. separating certain raw animal foods from each other because of different cooking temperatures.

Food Display and Service

22:12-1 General

A. Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter service line, or food/sneeze guards, display cases, or other effective means.

B. Proper utensils shall be used for preparation service and dispensing of food. These utensils shall be stored in accordance with section 22:19-10.

C. Reuse of soiled tableware by self-service consumers returning to the service area for additional food is prohibited.

22:12-2 Bulk Foods: Bulk foods shall be handled and dispensed in a manner described in 22:12-1.

22:12-3 Condiments: Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

22:12-4 Ice

A. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic service ice-dispensing equipment. Ice-dispensing utensils shall be stored in accordance with section 22:019-10.

B. Ice used as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, may not be used as food.

22:12-5 Reservice: Once served to a consumer, portions of left-over food shall not be reserved. Food that is not potentially hazardous, such as crackers and condiments, in an unopened original package and maintained in sound condition may be reserved or resold.

Equipment and Utensils

22:13 General: All equipment and utensils shall be of construction approved by the State Health Officer.

22:13-1 Multi-use: Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substance or impart colors, odors, or tastes to food and under normal use conditions shall be:

- A. safe;
- B. durable, corrosion-resistant, and non absorbent;
- C. sufficient in weight and thickness to withstand repeated warewashing;
- D. finished to have a smooth, easily cleanable surface and

E. resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

22:13-2 Copper: Copper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine.

22:13-3 Galvanized Metal: Galvanized metal may not be used for utensils or food-contact surfaces or equipment that are used for beverages, acidic food, moist food or hygroscopic food.

22:13-4 Solder and Flux: Solder and flux containing lead in excess of 0.2 percent may not be used on surfaces that contact food.

22:13-5 Wood: Except as specified in part A, B and C of this section, wood and wood wicker may not be used as a food-contact surface:

A. hard maple or an equivalently hard, close-grained wood may be used for:

1. cutting boards; cutting blocks, baker's tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

2. wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230°F (110°C) or above;

B. whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used;

C. if the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in untreated wood containers or approved treated wood container complying with C.F.R..

22:14 Non Food-Contact Surfaces: Surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, non absorbent, and smooth material.

22:15 Single-Service and Single-Use Articles: Single-service and single-use articles may not be reused.

22:16 Slash-Resistant Gloves, Use Limitations

A. Except as specified in part B of this section, slash-resistant gloves that are used to protect hands during operations requiring cutting may be used in direct contact only with food that is subsequently cooked such as frozen food or a primal cut of meat.

B. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and non-absorbent outer surface; or if the slash resistant gloves are covered with a smooth, durable, non-absorbent glove, or a single-use glove.

22:17 Food Temperature Measuring Devices: Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

Requirements for Equipment

22:18-1 General: Equipment used for cooling, heating and holding cold and hot foods, shall be sufficient in number and capacity to provide food temperatures as specified in this Chapter.

22:18-2 Manual Warewashing, Sink Compartment Requirements

A. A sink with at least three (3) compartments shall be provided for manual washing, rinsing and sanitizing equipment and utensils.

B. Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils.

C. When equipment or utensils are too large for the warewashing sink or warewashing machine, the following alternative process may include:

1. high-pressure detergent sprayers;
2. low- or line-pressure spray detergent foamers;
3. other task-specific cleansing equipment, such as CIP;
4. brushes or other implements.

D. Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing. Drainboards for sinks and machines shall be self-draining.

E. A warewashing sink may not be used for handwashing or dumping mop water. Sinks may be used to wash wiping cloths, wash produce and other foods or thaw foods if the sinks are properly washed and sanitized before this use.

22:18-3 Warewashing Machines

A. A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

1. temperatures required for washing, rinsing and sanitizing;
2. pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
3. conveyor speed for conveyor machines or cycle time for stationary rack machines.

B. Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

C. Warewashing machines shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. in each wash and rinse tank; and
2. as the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

D. Warewashing machines shall be operated in accordance with the machine's data plate and other manufacturer's specifications.

Cleaning of Equipment and Utensils

22:19-1 General:

A. Equipment food-contact surfaces and utensils shall be clean to sight and touch.

B. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

C. Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

22:19-2 Frequency of Cleaning

A. Equipment food-contact surfaces and utensils shall be cleaned:

1. before each use with a different type of raw animal food such as beef, seafood, lamb, pork, or poultry;
2. each time there is a change from working with raw foods to working with ready-to-eat foods;
3. between uses with raw fruits or vegetables and with potentially hazardous food;
4. before using or storing a temperature measuring device;
5. at any time during the operation when contamination may have occurred.

B. Equipment food-contact surfaces and utensils used with potentially hazardous food shall be cleaned throughout the day at least every four (4) hours.

C. Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

D. Warewashing equipment, including machines and the compartments of sinks, basins or other receptacle used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards, shall be cleaned:

1. before use;
2. throughout the day at frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended needed function; and
3. if used, at least every 24 hours.

22:19-3 Cleaning Agents: The wash compartment of a sink, mechanical warewasher, or other alternative process as specified in section 22:18-2 (C), shall, when used for warewashing, contain a wash solution of soap, detergent, acid cleaner, alkaline cleanser, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instruction.

22:19-4 Temperature of Wash Solution

A. The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110°F (43°C) unless a different temperature is specified on the cleaning agent manufacturer's label instruction.

B. The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

1. for a single tank, stationary rack, single temperature machine, 165°F (74°C);
2. for a single tank, conveyor, dual temperature machine, 160°F (71°C);
3. for a single tank, stationary rack, dual temperature machine, 150°F (66°C);
4. for a multitank, conveyor, multi temperature machine, 150°F (66°C).

C. The temperature of the wash solution in spray type warewashers that use chemicals to sanitize may not be less than 120°F (49°C).

22:19-5 Methods of Cleaning

A. Precleaning:

1. food debris on equipment and utensils shall be scrapped over a waste disposal unit, scupper, or garbage receptacle or shall be removed in a warewashing machine with prewash cycle;

2. if necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

B. Loading: Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

1. expose the items to the unobstructed spray from all cycles; and

2. allows the items to drain.

C. Wet Cleaning

1. Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high pressure sprays; or ultra sonic devices;

2. The washing procedures selected shall be based on the type and purpose of equipment or utensil, and on the type of soil to be removed.

3. Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts.

22:19-6 Rinsing Procedures: Utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or other solutions. A distinct, separate water rinse after washing and before sanitizing shall be used with the following:

1. a three (3) compartment sink;

2. alternative manual warewashing equipment equivalent to a three (3) compartment sink as specified in 22:18-2 (C);

3. a three (3) step washing, rinsing and sanitizing procedure in a warewashing system for CIP equipment.

22:19-7 Sanitization: After the food-contact surfaces of all equipment and utensils are cleaned, they shall be sanitized before use. Clean food-contact surfaces of equipment and utensils shall be sanitized in:

A. hot water;

1. if immersion in hot water is used in manual operation, the temperature of the water shall be maintained at 171°F (77°C) or above;

2. in a mechanical operation, the temperature of the hot water rinse as it enters the manifold may not be more than 194°F (90°C) or less than:

a. for a single tank, stationary rack, single temperature machine, 165°F (74°C); or

b. for all other machines, 180°F (74°C). This should achieve a utensil surface temperature of 160°F (71°C) as measured by an irreversible registering temperature indicator;

3. in a mechanical operation using a hot water rinse, the flow pressure may not be less than 15 pounds per square inch

or more than 25 pounds per square inch as measured in the water line immediately upstream from the fresh hot water sanitizing rinse control valve;

B. chemical;

1. when a chemical sanitizer is used in a sanitizing solution for manual or mechanical operational at the specified exposure times, it shall be listed in 21 CFR 178.1010 sanitizing solutions, shall be used in accordance with the EPA approved manufacturers label use instructions, and shall be used as follows:

a. a chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

Minimum Concentration	Minimum Temperature	
MG/L (p.p.m.)	pH 10 or less °F (°C)	pH 8 or less °F (°C)
25	120 (49)	120 (49)
50	100 (38)	75 (24)
100	55 (13)	55 (13)

b. an iodine solution shall have a:

i. minimum temperature of 75°F (24°C);

ii. pH of 5.0 or less, unless the manufacturer's use directions included in the labeling specify a higher pH limit of effectiveness; and

iii. concentration between 12.5 mg/L and 25 mg/L (p.p.m.);

c. a quaternary ammonium compound solution shall:

i. have a minimum temperature of 75°F (24°C);

ii. have a concentration as specified under 7-204.11 and as indicated by the manufacturer's use directions included in labeling; and

iii. be used only in water with 500 mg/L (p.p.m.) hardness or less;

d. other solutions of the chemicals specified in a, b, and c, of this section may be used if demonstrated to the Department to achieve sanitization and approval by the Department; or

e. other chemical sanitizers may be used if they are applied in accordance with the manufacturer's use directions included in the labeling;

2. chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified in 22:19-7 B (1) shall be used to provide the following:

a. an exposure time of at least 10 seconds for a chlorine solution;

b. an exposure time of at least 30 seconds for other chemical sanitizer solutions; or

c. an exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficiency, yields sanitization as defined in this Chapter;

3. a test kit or other device that accurately measures the concentration in mg/L or parts per million (p.p.m.) of sanitizing solutions shall be provided.

22:19-8 Air Drying

A. Except as specified in C of this section, after cleaning and sanitizing, equipment and utensils may not be cloth-dried.

B. Equipment and utensils may be air-dried or used after adequate draining as specified in paragraph A of 21 CFR 178.1010 Sanitizing Solutions, before contact with food.

C. Utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

22:19-9 Storage of Clean Equipment and Utensils

A. Except as specified in D of this section, cleaned equipment, utensils and single-service and single use articles shall be stored:

1. in a clean dry location;
2. where they are not exposed to splash, dust, or the contamination; and
3. at least 6 inches (15cm) above the floor.

B. Clean equipment and utensils shall be stored as specified under A of this section and shall be stored:

1. in a self-draining position that permits air drying; and
2. covered or inverted.

C. Single-service and single-use articles shall be stored as specified under A of this section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

D. Items that are kept in closed packages may be stored less than 6 inches (15cm) above the floor on dollies, pallets, racks, and skids provided that the storage equipment is designed so that it may be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

22:19-10 In-Use and Between Use Utensil Storage: During pauses in food preparation or dispensing, food preparation dispensing utensils shall be stored:

A.1. in the food with their handles above the top of the food;

2. in food that is not potentially hazardous with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour or cinnamon;

B. on a clean portion of the food preparation table or cooking equipment in accordance with section 22:19-1 and 2;

C. in running water of sufficient velocity to flush particulate matter to the drain, if used with moist food such as ice cream or mashed potatoes; or

D. in a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous.

Water Supply 22:20-1 General: Enough potable water for the needs of the retail food store/market shall be provided in accordance with Chapter XII of this Code.

22:20-2 Pressure: Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water.

22:20-3 Hot Water: Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the retail food store/market.

22:20-4 Steam: Steam used in contact with food or food contact surfaces shall be free of deleterious materials or additives.

22:20-5 Bottled Water: Bottled and packaged potable water shall be obtained from a source that complies with Chapters VI and XII of this Code and the Food, Drug and Cosmetic Laws and Regulations. Bottled and packaged potable water, if used, shall be handled and stored in a way that protects it from contamination and shall be dispensed from the original container.

Sewage

22:21-1 General: All sewage from a retail food store/market shall be disposed of through an approved sewerage system/facility, community or individual, in accordance with Chapter XIII of this Code.

22:21-2 If an individual sewerage system is used, it shall be sized, constructed, maintained and operated according to law.

Plumbing

22:22-1 General: Plumbing shall be sized, installed, and maintained in accordance with Chapter XIV of this Code.

22:22-2 Cross-Connection: There shall be no cross-connection between the potable water supply and any other source of water of lesser quality including any source of pollution from which the potable water supply might become contaminated.

22:22-3 Backflow: Backflow shall be prevented by:

A. An air gap between the water supply inlet and flood level rim of the plumbing fixture, equipment, or nonfood equipment which is at least twice the diameter of the water supply inlet and may not be less than one (1) inch (25mm).

B. A backflow or backsiphonage prevention device installed and maintained on a water line in accordance with Chapter XIV of this Code.

C.1. Not having a direct connection between the sewage system and any drain line originating from equipment in which food, portable equipment, or utensils are placed.

2. If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five (5) feet (1.5m) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

22:22-4 Non Potable Water System: A nonpotable water system is permitted only for purposes such as air conditioning and fire protection, provided the system is installed in accordance with Chapter XII and Chapter XIV of this Code and:

A. the nonpotable water does not contact directly or indirectly, food, potable water, equipment that contacts food, or utensils and;

B. the piping of any nonpotable water system shall be easily identified so that it is readily distinguishable from piping that carries potable water.

22:22-5 Lavatory Facilities: All lavatory fixtures shall be installed in accordance with Chapter XIV of this code.

A.1. At least one (1) handwashing lavatory shall be located to permit convenient use by all employees in food preparation areas and utensil washing areas including the produce, meat and seafood markets.

2. Lavatories shall also be located in or immediately adjacent to toilet rooms.

B. Lavatories shall be accessible to employees at all times.

C. Lavatories shall be equipped to provide water at a temperature of at least 110°F (43°C) through a mixing valve or combination faucet.

D. If a self-closing, slow-closing, or metering faucet is used, it shall provide a flow of water for at least 15 seconds without the need to reactive the faucet.

E. Steam mixing valves are prohibited.

F. A supply of hand-cleansing soap or detergents shall be available at each lavatory. A supply of individual disposable towels, a continuous towel system that supplies the user with a clean towel or a heat-air drying device shall be available at each lavatory. The use of common towels is prohibited.

G. Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

H. A handwashing lavatory may not be used for purposes other than handwashing.

22:22-6 Toilet Facilities: All toilet fixtures shall be installed in accordance with Chapter XIV of this Code.

A. Toilet facilities shall be the number required, shall be conveniently located, and accessible to employees at all times.

B. Toilet rooms shall be completely enclosed, well lighted and shall have tight-fitting, self-closing, solid doors which shall be closed except during cleaning and maintenance.

C. Toilet rooms shall be vented to the outside atmosphere.

D. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials with at least one covered waste receptacle in toilet rooms used by women.

22:22-7 Grease Traps: An approved type grease interceptor shall be installed in accordance with Chapter XIV of this Code.

A. It shall be installed in the waste line leading from sink, drains and other fixtures or equipment where grease may be introduced in the drainage or sewage system in quantities that can affect line stoppage or hinder sewage treatment or private sewage disposal.

B. A grease trap, if used, shall be located to be easily accessible for cleaning and shall be serviced as often as necessary.

22:22-8 Garbage Grinders: If used, garbage grinders shall be installed and maintained in accordance with Chapter XIV of this Code. Garbage grinders shall not be used with individual sewerage systems.

22:22-9 Utility or Service Sink

A. At least one (1) service sink or one (1) curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste. The sink shall be located in an area to avoid food contamination.

B. The use of lavatories, utensil washing, equipment washing, or food preparation sinks for this purpose is prohibited.

C. In some special applications, because of space restrictions or unique situations, in the opinion of the State Health Officer or his representative that the risk of contamination is low, a large utility/service sink may be used as a handwashing sink.

Garbage and Refuse

22:23-1 General: All garbage and refuse shall be handled in accordance with Chapter XXVII of this Code.

22:23-2 Receptacles

A. Equipment and receptacles for refuse, recyclables, returnables, and for use with materials containing food residue shall be durable, cleanable, insect and rodent resistant, leakproof, and nonabsorbent.

B. Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the retail food store/market, or within closed outside receptacles.

C. Outside receptacles shall have tight-fitting lids, doors, or covers.

D. There shall be a sufficient number of receptacles to hold all the garbage and refuse that accumulates. They shall be emptied when full.

E. Soiled receptacles shall be cleaned at a frequency to prevent a nuisance or the attraction of insects and rodents.

F. Liquid waste from compacting shall be disposed of as sewage.

22:23-3 Incineration: Where garbage or refuse is burned on the premises, it shall be done by incineration in accordance with the rules and regulations of the Louisiana Department of Environmental Quality.

22:23-4 Cleaning and Storage

A. Indoor garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent washable materials, shall be kept clean, shall be insect and rodent proof and shall be large enough to store the garbage and refuse that accumulates.

B. Outdoor storage area surface shall be constructed of non-absorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

C. Suitable cleaning equipment and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of equipment and receptacles used for refuse, recyclable and returnable.

D. Liquid waste from the cleaning operation shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from entering the sanitary sewerage system. Dumpster pads may be elevated or curbed, enclosed or covered, and the sanitary sewerage drain protected with a proper cover.

E. In some special applications, if approved by the State Health Officer or his representative, off-premises-based cleaning services may be used if on-premises cleaning equipment and supplies are not provided at establishments which generate only rubbish.

F. Outdoor premises used for storage of refuse, recyclables and returnables shall be maintained clean and free of litter.

Insects and Rodent Control

22:24-1 General: Insects and rodents shall be controlled in accordance with Chapter V of this Code.

22:24-2 Insect Control Devices

A. Devices that are used to electrocute flying insects shall be designed to have "escape-resistant" trays.

B. Devices that are used to electrocute flying insects and that may impel insects or insect fragments or to trap insects by adherence shall be installed so that:

1. the devices are not located over a food preparation area; and
2. dead insects and insect fragments are prevented from being impelled onto or falling on exposed food, clean equipment, utensils, linens and unwrapped single-service and single-use articles.

22:24-3 Openings: Openings to a portion of the building that is not part of the food establishment or to the outdoors shall be protected against the entry of insects and rodents by:

- A. filling or closing holes and other gaps along floors, walls and ceilings;
- B. closed, tight-fitting windows;
- C. solid, self-closing, tight-fitting doors, or
- D. If windows or doors are kept open for ventilation or other purposes, the openings shall be protected against the entry of insects and rodents by:
 1. 16 mesh to the inch (25.4mm) screens;
 2. properly designed and installed air curtains; or
 3. other effective means.

E. Establishment location, weather or other limiting conditions may be considered as part of an overall flying insect and other pest control program.

22:24-4 Premises

- A. The premises shall be free of:
 1. items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and
 2. litter.
- B. The premises shall be kept free of pests by:
 1. routinely inspecting the premises for evidence of pests; and
 2. using methods of control approved by law.

C. Outdoor walking and driving areas shall be surfaced with concrete, asphalt, gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, drain properly and prevent muddy conditions.

Physical Facilities

22:25 Floors

- A. Floors shall be constructed of smooth, durable, and easily cleanable materials.
- B. Closely woven and easily cleanable carpet may be used in certain areas of retail food stores except where food is prepared and processed.
- C. Properly installed floor drains shall be provided in all markets where food is prepared and processed.
- D. Floors shall be maintained clean and in good repair.

22:26 Walls and Ceilings

- A. Walls and ceilings shall be constructed of light colored, smooth, durable and easily cleanable materials.
- B. Utility service lines, pipes, exposed studs, joists, rafters and decorative items shall not be unnecessarily exposed in food preparation and processing areas. When exposed in other areas of the retail food store, they shall be installed so they do not obstruct or prevent cleaning of the walls and ceilings.
- C. Walls, ceilings, and any attachments shall be maintained clean and in good repair.

22:27 Lighting

22:27-1 Lighting Intensity Shall Be:

- A. In walk-in refrigeration units and dry food storage areas, and in other areas or rooms during periods of cleaning, at least 110 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor;
- B. In areas where fresh produce or packaged foods are sold or offered for consumption, areas used for handwashing, warewashing, equipment and utensil storage, and in toilet rooms, at least 220 lux (20 foot candles) at a distance of 75 cm (30 inches) above the floor; and
- C. At a surface where a food employee is working with unpackaged potentially hazardous food or with food, utensils, and equipment such as knives, slicers, grinders, or saws where employees' safety is a factor, at least 540 lux (50 foot candles).

22:27-2 Shielding

- A. Light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food, clean equipment, utensils and linens or unwrapped single-service and single-use articles.
- B. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

22:28 Ventilation

22:28-1 Mechanical: If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes, mechanical ventilation of sufficient capacity shall be provided.

22:28-2 Hood: Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or

condensation from collecting on walls and ceilings and should be equipped with filters to prevent grease from escaping into the outside atmosphere.

22:28-3 Heating, Air Conditioning, Ventilating System Vents

These systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food preparation surfaces, equipment and utensils.

Poisonous or Toxic Materials

22:29-1 Labeling

A. Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

B. Working containers used for storing poisonous or toxic materials such as cleaners and sanitizer taken from bulk supplies shall be clearly and individually identified with the common name of the material.

22:29-2 Storage and Display: Poisonous or toxic materials shall be stored and displayed for retail sale or use in markets so they may not contaminate food, equipment, utensils, linens, single-service and single-use articles by:

A. separating the poisonous or toxic materials by spacing or partitioning; and

B. locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, single-service and single-use articles;

C. storing those properly labeled medicines and first aid supplies necessary for the health of employees or for retail sale in a location or area that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles; and

D. medicines, poisonous or toxic materials requiring refrigeration shall not be stored in a refrigerator used to store food;

E. storing employees' personal care items in lockers or other suitable facilities that are located in an area that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles.

22:29-3 Use

A. Only those poisonous or toxic materials that are required for the operation and maintenance of a retail food store/market such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in food preparation and processing areas. This does not apply to approved, packaged poisonous or toxic materials that are for retail sale stored in accordance with Section 22:28-2.

B. Poisonous or toxic materials shall be stored in accordance with Section 22:28-2 and used according to:

1. law;
2. manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that the use is allowed in a food preparation or processing area; and

3. any additional conditions that may be established by the regulatory authority.

C. Chemical sanitizers and other chemical antimicrobials applied to food contact surfaces shall meet the requirements specified in section 22:19-7(B).

D. Chemicals used to wash or peel raw, whole fruits and vegetables shall be used in accordance with the manufacturer's label instructions and as specified in 21CFR 173.315.

E. Restricted pesticides shall be applied and used according to law.

F. Rodent bait shall be contained in a covered, tamper-resistant bait station.

Miscellaneous

22:30 Prohibiting Animals

A. Except as specified in B and C of this Section, live animals may not be allowed on the premises of a retail food store/market.

B. Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles can not result:

1. edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

2. patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

3. in areas that are not used for food preparation such as dining and sales areas, support animals such as guide dogs that are trained to assist an employee or other person who is handicapped, are controlled by the handicapped employee of person, and are not allowed to be on seats or tables; and

C. live or dead fish bait shall be stored so that contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles can not result.

22:31 Curb Markets: Markets commonly called "curb markets" dealing in produce, if unenclosed, shall store all produce above the floor or ground level.

22:32 Distressed Merchandise: Products that are held by the retail food store/market for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

22:33 Dressing Areas, Lockers and Employee Break Areas

A. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

B. Lockers or other suitable facilities shall be provided and used for the orderly storage of employees' clothing and other possessions.

C. Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination. Areas where employees use tobacco should be well ventilated.

22:34 Itinerant Retail Food Store/Market:

22:34-1 Permit

A. No itinerant retail food store/market shall operate without first applying and receiving a permit to operate from the State Health Officer.

B. Seasonal permits issued to itinerant retail food stores/markets should coincide with the legally set seasons for the products those markets plan to handle or sell and expire the last day of that season.

22:34-2 Plans: Plans and specifications for all proposed itinerant retail food stores/ markets shall be submitted to the State Health Officer for review and approval before applying and receiving a permit.

22:34-3 Mobile Retail Food Stores/Markets

A. The interior of vehicles where food products are stored shall be constructed of a smooth, easily cleanable surface and maintained in good repair.

B. The interior of vehicles where food products are stored shall be kept clean.

22:34-4 Packaged Food Products: Trucks or vendors selling packaged food products such as ice cream, frozen novelties, meats, etc. shall operate from a base of operation where leftover products may be properly stored and inspected and the vehicle serviced. Packaged potentially hazardous foods shall be stored in accordance with section 22:09-5 and 22:09-7.

22:34-5 Produce: Produce vendors shall comply with Sections 22:08-1, 22:08-2, 22:08-4, 22:10 and 22:30. The produce should be protected by some type of enclosure or cover on the vehicles. If there are any "leftover" at the end of the day, they should be properly stored and protected from insects and rodents overnight.

22:34-6 Seafood

A. Boiled seafood shall be handled in accordance with guidelines set by the State Health Officer.

B. Oysters sold by the sack must be in an enclosed, mechanically refrigerated vehicle and comply with Section 22:08-1, 22:08-2, 22:08-4 and 22:08-5.

C. Live crabs or crawfish sold by the bushel or sack must be stored either on ice in an enclosed, insulated vehicle or in an enclosed mechanically refrigerated vehicle and comply with Section 22:08-1, 22:08-2 and 22:08-4.

D.1. Shrimp vendors shall store their shrimp in containers such as ice chest which are smooth, impervious and easily cleanable. The use of styrofoam is prohibited.

2. Shrimp shall be maintained at a temperature below 41°F (5°C) in accordance with Section 22:09-5.

3. A minimum one gallon container of sanitizer solution at the proper strength shall be provided in accordance with Section 22:19-7 B. to rinse hands, scoops, scales, ice chest, etc; as needed.

4. Paper hand towels and a waste receptacle shall be provided.

E. Waste water from any seafood vendor shall be disposed of properly in accordance with Section 22:21. Wastewater shall be collected in an approved, covered, labeled container

for proper disposal. The discharging of wastewater onto the ground or into a storm drainage system is prohibited.

22:35 Linen/Laundry

22:35-1 General: Clean linens shall be free from food residues and other soiled matter.

22:35-2: Frequency of Cleaning

A. Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

B. Cloth gloves shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish.

C. Wet wiping cloths shall be laundered before being used with a fresh solution of cleanser or sanitizer.

D. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

22:35-3 Wiping Cloths

A. Cloths that are used for wiping food spills shall be used for no other purpose.

B. Moist cloths used for wiping food spills on food contact surfaces of equipment shall be stored in a chemical sanitizer between uses.

22:35-4 Storage of Soiled Linens: Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils and single-service and single-use articles.

22:35-5 Use of Laundry Facilities

A. Laundry facilities on the premises of a retail food store/market shall be used only for the washing and drying of items used in the operation of the establishment and located away from food preparation areas.

B. Linens which are not laundered on the premises may be sent to an off premise commercial laundry.

22:36 Living Areas: Living or sleeping quarters such as a private home, a room used as living or sleeping quarters, or area directly opening into a room used as living or sleeping quarters, shall not be used for conducting retail food store/market operations.

22:37 Maintenance Equipment

A. Maintenance tools such as brooms, mops, vacuum cleaners, and similar equipment shall be:

1. stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and
2. stored in an orderly manner that facilitates cleaning of the maintenance equipment storage location.

B. After use, mops shall be placed in a position that allows them to air dry without soiling walls, equipment, or supplies.

22:38 Open Front Markets: Only properly labeled, prepackaged foods may be stored or offered for sale in open front markets. This provision does not apply to produce that is normally peeled or washed prior to consumption.

22:39 Reduced Oxygen Packaging Criteria

A. A Retail Food Establishment that packages food using a reduced oxygen packaging method shall have a Hazard

Analysis Critical Control Point (HACCP) plan and also provide the following information:

1. identifies the food to be packaged;
2. limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one of the following:
 - a. has a water activity (a_w) of 0.91 or less;
 - b. has a pH of 4.6 or less;
 - c. is a meat product cured at a food processing plant regulated by the U.S.D.A. or LA. Department of Agriculture using a combination of nitrites and salt that at the time of processing consists of 120 mg/L or higher concentration of sodium nitrite and a brine concentration of at least 3.50 percent, and is received in an intact package or;
3. specifies methods for maintaining food at 41°F (5°C) or below;
4. describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
 - a. maintain the food at 41°F (5°C) or below; and
 - b. discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;
5. limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, which ever occurs first;
6. includes operational procedures that:
 - a. prohibit contacting food with bare hands;
 - b. identify a designated area and the method by which:
 - i. physical barriers or methods of separation of raw foods and ready-to eat foods minimize cross-contamination; and
 - ii. access to the processing equipment is restricted to responsible trained personnel familiar with the potential Hazards of the Operation; and
 - c. delineate cleaning and sanitization procedures for food-contact surfaces; and
7. describes the training program that ensures that the individual responsible for the reduced oxygen packaging (Vacuum Packaging) operation understands the:
 - a. concepts required for a safe operation;
 - b. equipment and facilities; and
 - c. procedures specified in A.6 of these guidelines and the HACCP plan.

B. Except for fish that is frozen before, during, and after packaging, a retail establishment may not package fish using a reduced oxygen packaging method.

22:40 Smoked Meat Preparation

22:40-1 Not Fully Cooked: Not fully cooked meats, also referred to as "partially cooked meats", shall be heated to a temperature and time sufficient to allow all parts of the meat to reach between 100°F and 140°F. This product shall be labeled on each retail package *Further Cooking Required* with lettering of not less than one-half (1/2) inch.

22:40-2 Fully Cooked: Fully cooked meats shall be heated at a temperature and time sufficient to allow all parts of the meat to reach 155°F except poultry products which shall reach 165°F with no interruption of the cooking process and fish which shall reach 145°F.

22:41 Special Food Preparation

22:41-1 Special food preparation shall include cooking and/or preparation of ready-to-eat foods including but not limited to deli food.

22:41-2 Special food preparation shall be conducted in separate facilities partitioned from the market and other operations and shall comply with all the provisions of Chapter XXIII of the Code. Seafood Markets may sell boiled seafood such as crabs, crawfish, and shrimp.

22:42 Inspections

22:42-1 Frequency: Inspections of retail food stores/markets shall be performed as often as necessary for the enforcement of this chapter.

22:42-2 Access: Representatives of the State Health Officer, after proper identification, shall be permitted to enter any retail food store/market at any time for the purpose of making inspections to determine compliance with this chapter.

22:42-3 Records: The State Health Officer shall be permitted to examine the records of retail food stores/markets to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed. Such records shall be maintained for a period of not less than six (6) months.

22:42-4 Reports: Whenever an inspection of a retail food store/market or food establishment is made, the findings shall be recorded on an inspection report form. A copy of the completed inspection report shall be furnished to the person in charge of the retail food store/market or food establishment at the conclusion of the inspection.

22:43 Enforcement

22:43-1 General: Enforcement procedures shall be conducted in accordance with Chapter I of the code.

22:43-2 Critical Violations: Critical items, such as, but not limited to, a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water source, chemical contamination, sewage backup or improper sewage disposal, noted at the time of inspection shall be corrected immediately or by a time set by the State Health Officer.

22:43-3 Noncritical Violations: Noncritical items noted at the time of inspection shall be corrected as soon as possible or by a time limit set by the State Health Officer.

22:43-4 Adulterated Food: Any food product that is adulterated, misbranded or unregistered is subject to seizure and condemnation by the State Health Officer according to Law.

David W. Hood
Secretary

9901#071

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Sewage Disposal (Chapter XIII)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health is amending Chapter 13 as follows.

Sanitary Code

Chapter XIII. Sewage Disposal

Sub-Part A. Definitions

13:001 As used in this Chapter, the terms defined in this Section supplement any definitions which may be set forth in law and shall have the following meanings and/or applications, unless the context or use thereof clearly indicates otherwise, or more explicit definitions and/or applications are referenced. Terms not defined or referenced herein shall have the meanings as defined in the other chapters of the Sanitary Code of the State of Louisiana. In any instance where a term defined herein is also defined in one or more other Chapters of this Code, the definition contained in this Chapter shall be given preference as it pertains to sewage disposal.

Commercial Treatment Facility (designed in accordance with 13:007)—means any treatment facility which is required by the State Health Officer whenever the use of an individual sewerage system is unfeasible or not authorized.

Community Sewerage System—means any sewerage system which serves multiple connections and consists of a collection and/or pumping/transport system and treatment facility.

Conventional Septic Tank System—means a septic tank system which consists of a septic tank(s) followed by a subsurface absorption field.

Facility or Facilities—means any or all of the apparatus and appurtenances associated with a sanitary sewage treatment system, element, or process.

Gravelless Pipe—is a proprietary device which may be used in lieu of conventional subsurface absorption field materials when approved by the State Health Officer.

Individual Mechanical Plant—means a treatment facility which provides primary and secondary treatment of sanitary sewage by use of aerobic bacterial action which is sustained by mechanical means.

Individual Sewerage System—means any system of piping (excluding the building drain), and/or collection and/or transport system which serves one or more connections, and/or pumping facility, and treatment facility, all located on the property where the sanitary sewage originates; and which utilizes the individual sewerage system technology which is set forth in Appendix A of this Chapter, or a commercial treatment facility which is specifically authorized for use by the State Health Officer.

Limited Use Sewerage System—means a sewerage system which may be authorized by the State Health Officer for installation or use for a structure or dwelling which is occupied less than four days in a week, and the use of which generates less than 100 GPD of sanitary sewage.

Manufacturer—means a person who engages in the business or practice of constructing individual mechanical sewerage treatment systems, and who is responsible for having the system evaluated in compliance with Appendix A:6.4 of this Chapter.

Person—means any natural person, partnership, corporation, association, governmental subdivision, receiver, tutor, curator, executor, administrator, fiduciary, or representative of another person, or public or private organization of any character.

Premises—means any structure or dwelling of any construction whatsoever in which a person may live, work, or congregate.

Sanitary Sewage—means any and all human waste and/or domestic waste, the disposal of which requires a sewerage system approved or authorized by the State Health Officer. Sanitary sewage may include its conveying liquid and/or any other liquid or solid material which may be present therein.

Secondary Treatment Standard—means a sewage effluent water quality standard which prescribes a maximum 30-day average concentration of biochemical oxygen demand (five-day basis) of 30 milligrams per liter (mg/l), and a maximum daily concentration of biochemical oxygen demand (five-day basis) of 45 mg/l. The 30-day average concentration is an arithmetic mean of the values for all effluent samples collected in the sampling period. The analyses to be performed for the purpose of determining compliance with these effluent limitations and standards shall be in accordance with the 18th edition of the "Standard Methods for the Examination of Water and Wastewater", available from the American Public Health Association 1015 Eighteenth Street NW, Washington, D.C. 20036, except where otherwise specified.

Septic Tank System—means an individual sewerage system which consists of a septic tank(s) followed by a process which treats and disposes of the septic tank effluent.

Sewerage System—means any system of piping (excluding the building drain and building sewer) and/or collection and/or transport system and/or pumping facility and/or treatment facility, all for the purpose of collecting, transporting, pumping, treating and/or disposing of sanitary sewage.

Subdivision—for the purpose of these regulations means:

1. the division, or the process or results thereof, of any land into (two) 2 or more lots, tracts, parcels, or plots, any one of which has an area of less than 3 acres; or
2. the re-subdivision of land heretofore divided into lots, tracts, sites or parcels; provided, however, that minimum lot size restrictions presented in Section 13:011-2 shall not apply to:

a. a subdivision legally established and recorded prior to July 28, 1967; or

b. a small parcel of land sold to or exchanged between adjoining property owners, provided that such a sale or exchange does not create additional lots.

Note: For the purpose of these regulations, the requirements for wetlands might be more stringent.

Sub-Manufacturer—means a person or entity authorized by a licensed manufacturer to construct, or assemble individual sewerage systems, or any portion thereof.

Trailer Coach—means any of the various forms of structures which are equipped, or capable of being equipped, with wheels, including, but not limited to, travel trailers, truck coaches or campers, mobile homes, trailers, and/or tent campers, whether capable of moving under its own power or not, and where a person or persons may live, work, or congregate.

Trailer Park—means any lot, tract, parcel or plot of land upon which more than one trailer coach is or may be located, and where trailer coach spaces are rented or leased.

Sub-Part B. General Requirements

13:002 All premises shall be provided with plumbing fixtures as prescribed in Chapter XIV of this Code. Such plumbing fixtures shall be connected to a community sewerage system whenever feasible or to an individual sewerage system which is specifically approved for the premises by the State Health Officer after it is determined that connection to a community sewerage system is unfeasible and that the installation and operation of an individual sewerage system is not likely to create a nuisance or a public health hazard.

13:003 A person who owns, operates, manages, or otherwise controls any premises, shall provide for sewage disposal in a manner which is in compliance with this Code.

13:004-1 A person shall not directly or indirectly discharge, or allow to be discharged, the contents or effluent from any plumbing fixtures, vault, privy, portable toilet, or septic tank, into any road, street, gutter, ditch, water course, body of water, or onto the surface of the ground.

13:004-2 No component part of a sewerage system shall be installed wherever contamination of a ground water supply may occur. The location of any sewerage facility shall not conflict with the placement requirements for a water well which are set forth in Chapter XII of this Code.

13:005 Previous Permits. Any permits issued, or approval of plans and specifications granted prior to the effective date of the 1998 revisions of this Chapter shall remain in effect as it relates to the design of the sewerage system, unless the State Health Officer determines there exists a need for revision of such permits or approvals.

Sub-Part C. Community Sewerage Systems

13:006 Permits. A person shall not construct or operate a community sewerage system, or make a modification of an existing system which changes the system's capacity, effluent quality, point of discharge, hydraulic or contaminant loadings, or operation of the component units of the system without having first obtained a permit from the State Health Officer.

No community sewerage system shall be constructed, or modified to the extent mentioned above, except in accordance with plans and specifications for installation which have been approved as a part of a permit issued by the State Health Officer prior to the start of construction or modification.

13:007 Plans. Detailed plans and specifications for the construction or modification of a community sewerage system for which a permit is requested shall be submitted by the person who is the owner, his legal agent or who has responsible charge of the facilities. The review and approval of plans and specifications submitted for issuance of a permit will be made in accordance with the design standards presented in "Recommended Standards for Sewage Works", 1990 Edition, promulgated by the Great Lakes and Upper Mississippi River Board of State Sanitary Engineers and available from Health Education Service, P. O. Box 7126, Albany, New York 12224. Proposals which deviate significantly from the standards must be submitted to the State Health Officer with supporting documentation.

13:008-1 All component facilities of a community sewerage system shall, at all times, be maintained in the same configuration as permitted, in working order and operated efficiently to minimize upsets, discharges of excessive pollutants, bypassing of discharges from the system, and health hazards and nuisances. Operator staffing and training, laboratory and process controls, maintenance during normal periods of equipment downtime, backup equipment, and spare parts shall be provided as needed to maintain continuous compliance with the effluent limitations and standards established for the facility by the State Health Officer and to avoid any bypass or any overflow from the system.

13:008-2 Community sewerage systems shall be operated and maintained so as to consistently produce effluent water quality meeting the minimum requirements of the Secondary Treatment Standard. Additional effluent standards may be established by the State Health Officer as needed based upon downstream uses of receiving waters.

13:008-3 The bypass of any raw or partially treated sewage from a community sewerage system is prohibited, except where unavoidable to prevent a potential threat to Public Health and Safety or severe property damage, and where no feasible alternatives to bypass exist. The use of alternatives to bypassing, such as auxiliary treatment facilities, retention of untreated wastes, maintenance during normal periods of equipment downtime, or installation of adequate backup equipment shall be utilized to the maximum extent feasible to avoid bypassing.

13:009 Records. By request, copies of reports and suitable daily analyses and records of daily operations shall be submitted monthly to the State Health Officer.

13:010 Land Application. No sewage sludge, or sewage treatment effluent shall be applied to land for treatment, disposal, irrigation or other purposes without a permit from the State Health Officer. The Louisiana Department of Environmental Quality should also be contacted regarding other approvals or permits required by that agency for land application projects.

13:011-1 Connections to Community Sewerage Systems.

Where an established community sewerage system (either public or private) is available, and there is ample water supply, all plumbing fixtures within any structure shall be connected to such community sewerage system. Determination by the State Health Officer of the availability of a community sewerage system shall take into consideration, among other aspects, the separation (both horizontal and vertical) of the structure in question and the sewer main or lateral, political or geographic or legally created boundaries, and the available capacity of the sewer system.

13:011-2 Community Sewerage System Required.

Community sewerage systems shall be provided for all new subdivisions and developments where lots are sold or leased. The developer/owner shall be responsible for the provision of adequate sewage treatment and disposal. The use of individual sewerage systems in lieu of a community sewerage system may be authorized and will be considered under the following circumstances:

1. In subdivisions comprised of less than 125 lots, when the developer submits a comprehensive drainage plan as well as a proposal for restrictive covenants which detail requirements for perpetual maintenance of drainage. This requirement shall apply for all new subdivisions and developments.

2. When the total anticipated design flow to the sewerage system does not exceed 1,500 gpd, and where no food service is involved as per Section 13:021. 2.

3. On large lots, where an area of one (1) acre or more is involved, having a minimum frontage of 125 feet.

4. The installation would be located on a lot, plot or site which has a minimum area of 22,500 square feet, and a minimum frontage of 125 feet.

5. For subdivisions when each and all lots have a minimum area of at least 22,500 square feet and a minimum frontage of 125 feet, except that the 125 foot frontage requirement may be waived for up to 15 percent of the total number of lots in the development if (a) minimum frontage on each lot in question is not less than 60 feet, and; (b) the width of each lot in question is at least 125 feet.

6. For parishes in which the parish governing authority has enacted and enforces a formal sewage permitting system (requiring approval of individual sewage disposal systems by the State Health Officer prior to issuance of any parish permits) and when the lots or sites in question meet any of the following criteria:

a. minimum area of 22,500 square feet and a minimum frontage of 80 feet.

b. minimum area of 16,000 square feet and a minimum frontage of 80 feet where an approved individual mechanical plant is to be utilized.

c. minimum area of 12,000 square feet and a minimum frontage of 60 feet where an approved individual mechanical plant is utilized and is followed by 50 feet of modified absorption field (see Appendix A, Section IX).

7. Where lots of "record" (i.e., lots created by formal subdivision prior to July 28, 1967) are combined (in accord

with the definition of a subdivision) to create a new, larger, single lot, and no re-subdivision of the property is involved.

8. For single lots or sites, regardless of size, remaining in substantially developed previously established subdivisions, when, in the opinion of the State Health Officer, a hazard to the public health will not result.

9. For single lots or sites, regardless of size, when the installation of an individual sewerage system is proposed in order to renovate or replace a pre-existing sewerage system. Such installation may be allowed when, in the opinion of the State Health Officer, a public health hazard or nuisance will not result. This provision shall apply to the renovation or replacement of pre-existing systems only and shall not be utilized to circumvent other requirements, particularly those relative to minimum lot size for new residences and subdivision development, of this Code.

13:011-3 Reserved

13:011-4 The State Health Officer may consider for approval, on an individual basis, proposals for developments that are of a unique nature, such as a development over water, or irregular configuration, where individual sewage disposal is proposed, where the development, by its very nature (e.g., where commonly or jointly owned property is involved), is clearly not addressed by the current considerations of this Code.

Sub-Part D. Individual Sewerage Systems

13:012-1 Permits. A person shall not install, cause to be installed, alter subsequent to installation, or operate an individual sewerage system of any kind without first having obtained a permit from the State Health Officer. No person shall install, cause to be installed, or alter subsequent to installation an individual sewerage system of any kind except in accordance with the plans and specifications for the installation which have been approved as a part of a permit issued by the State Health Officer. Such permits shall be issued in a two-stage process in accordance with Sections 13:012-2 and 13:012-3.

13:012-2 Upon receipt of a request for such permit, and approval of plans and specifications for the proposed individual sewerage system (which shall accompany any such request for permit), a temporary permit, authorizing the installation of said system, may be issued. Any such temporary permit shall be in writing and shall not be issued until, with respect to the property and its surroundings, the State Health Officer has determined that connection to a community-type sewerage system is not feasible, and that the condition of the soil, drainage patterns, the lot size/dimensions, and other related factors are such that the construction and use of properly designed individual sewerage facilities are not likely to create a nuisance or public health hazard.

13:012-3 A final permit approving the installation, shall be issued only upon verification that the individual sewerage system has been installed in compliance with this Code. The verification of such installation shall be determined by means of an on-site inspection conducted by a representative of the State Health Officer and/or in the form of a completed

"Certification by Installer" form submitted to the State Health Officer by the licensed installer. The installer shall notify the appropriate local Parish Health Unit prior to the installation of an individual sewerage system. The sanitarian shall not issue final approval for this system unless he/she has received a completed and signed certification by installer form. The certification by installer shall be submitted to the State Health Officer within fifteen (15) days after completion of the installation. A final permit shall be issued and provided to the owner/occupant of the premises to be served by the individual sewerage system.

13:012-4 If a consumer currently owns, is contemplating purchasing and having installed, or is an installer of Individual Mechanical Sewage Treatment Plants, that consumer should be made aware that:

It has become apparent that the electrical components of Individual Mechanical Sewage Treatment Plants which require connection to a source of electricity may not be properly connected to that electrical source in some cases. Specifically, mechanical sewage treatment plants, using electrical power may require a properly installed Ground Fault Current Interrupter (GFCI).

The Office of Public Health has specific statutory authority and mandates to protect the public health from the improper treatment and disposal of sewage. This office will offer the public consultation with regard to the appropriate sewage treatment system that should be used in a specific application, considering system design for properly treating sewage, sizing for the number of people using the system, location of the system, and other health considerations, as necessary. However, the Office of Public Health does NOT have the authority to inspect or approve electrical connections, are NOT qualified in the area of such electrical connections and will not assume responsibility for such electrical safety considerations.

Accordingly, proper electrical connections must be made to the air pump/blower and/or any other electrical components that are integral parts of an Individual Mechanical Sewage Treatment Plant, and that a qualified electrician should perform or examine the installation(s) for appropriate wiring and installation, as well as the connection to the Ground Fault Current Interrupter.

13:012-5 Permits for the installation of individual sewerage systems shall not be issued for lots within a formal subdivision unless an official recorded plat/property survey has been filed with and subsequently approved for use of individual sewerage systems by the Office of Public Health.

13:013-1 Plans. The review and approval of plans and specifications for the proposed individual sewerage system shall be made in accordance with the "Regulations Controlling the Design and Construction of Individual Sewage Systems" (See Appendix A).

13:013-2 Individual sewerage systems, other than conventional septic tank systems, i.e., septic tanks followed by a subsurface disposal system, including those facilities built in conflict with the State of Louisiana Sanitary Code, shall comply with all provisions of the Louisiana Department of

Environmental Quality Wastewater Discharge Permit. The Louisiana Department of Environmental Quality should be contacted for information regarding wastewater discharge permits. The State Health Officer may establish other limitations or standards, as needed, in consideration of the water quality of affected surface water bodies and groundwaters.

13:014-1 A person who wishes to engage in the business of installing or providing maintenance of individual sewerage systems shall obtain, in accordance with the procedures set forth in Section 13:023 of this Chapter, a license for such activity prior to making any such installations or providing maintenance. Such a license shall not be required, however, for an individual wishing to install an individual sewerage system, other than an individual mechanical plant, for his own private, personal use. Individual mechanical plants shall be installed and maintenance provided by licensed individual sewerage system installers and/or maintenance providers only.

13:014-2 A person installing or providing maintenance of an individual sewerage system and the person who is the owner of the premises shall be responsible for compliance with Sections 13:012 and 13:013.

13:015 Maintenance and Operation. Individual sewerage systems shall be kept in service and in a serviceable condition sufficient to insure compliance with this Code and in order to avoid creating or contributing to a nuisance or a public health hazard.

13:016 Septic Tank Systems. Where a community-type sewerage system is not available, a septic tank system may be used provided that the requirements of Sections 13:011-2, 13:012, 13:013-1, and 13:014 are complied with.

13:017-1 Individual Mechanical Plants. An individual mechanical plant may be used where a community-type system is not available, and where the State Health Officer determines that a conventional septic tank system (septic tank - absorption field) would not be expected to function properly, and where the requirements of Sections 13:011-2, 13:012, 13:013-2, and 13:014 are complied with.

13:017-2 Permits, per the requirements of Section 13:012, for the installation of individual mechanical plants, shall not be issued except and unless the manufacturer of the mechanical plant has received a manufacturer's license in accordance with the requirements of 13:022-1, and has received appropriate certification from DHH/OPH.

13:018-1 Other Individual Sewerage Systems. Where a person proposes innovative processes or design features other than those described in Appendix A of this Chapter, a limited number of experimental or developmental installations may be approved where: either failure of the installation or insignificant benefits to performance and cost is not expected, based on current engineering data and literature. The total number of such installations shall not exceed three (3) throughout the State and shall be approved under the following conditions:

13:018-2 Each installation shall be installed only in accordance with plans and specifications and testing procedures which have been specifically approved for each

installation as a part of a permit issued by the State Health Officer prior to the installation.

13:018-3 The permit for each installation shall be for a period of one year and may be renewed under the provisions of Section 13:018.

13:018-4 Should an innovative process fail, the owner of the premises and the person proposing the innovative process shall upgrade or replace the installation to bring it into compliance with the applicable provisions of this Chapter.

13:018-5 After the experimental or developmental use of an installation is completed, the permit issued under this Section may be revised to remove the restrictions cited in paragraphs 13:018-2 and 13:018-3 if the State Health Officer determines that the available data show that continued use of the installation will not result in non-compliance with applicable provisions of this Chapter. Such a revision of a permit issued under Section 13:018 shall apply only to the individual installation approved under that permit, and should not be construed as being an approval of the system design for other existing or future installations.

13:018-6 Proprietary Devices. Proprietary devices are all devices designed to reduce, process, and treat all or a select portion of wastewater generated within the individual home.

This includes water recycle and reuse devices, water conservation devices, composting units, and other devices intended to reduce the volume of waste generated or water consumed. The approval of a proposal to utilize a proprietary device may only be granted by the State Health Officer.

Sewage Hauling

13:019-1 A person shall not engage in the business or practice of hauling the contents of septic tanks, cesspools, vaults, or similar facilities without first obtaining a license from the State Health Officer. Applications for a license to haul sewage may be obtained from the nearest parish health unit. Applications must be sent to the Sanitarian Program Administrator - Individual Sewage, Sanitarian Services Section. All licenses shall be issued by this office and shall be valid throughout the state.

13:019-2 All licenses expire on June 30 of each new year.

Applications for renewal must be received no later than May 1st of each year in order to insure timely renewal. Initial applications received between July 1 and March 30 will receive a license for that fiscal year (July 1 through June 30); those initial applications received after March 30th will receive a license for the remainder of that fiscal year in addition to the next fiscal year.

13:019-3 Upon determination by the State Health Officer of substantial non-compliance with the requirements of this Code with respect to the hauling and/or disposing of the contents of septic tanks, cesspools, vaults, or similar facilities, (not including grease traps), written notice, in compliance with LRS 49:961, shall be given to the licensee having made said violations that he shall, within fifteen (15) working days, present to the notifying office any and all evidence to show compliance with the requirements for retention of the license.

In the absence of such evidence, the licensee shall be further notified that his license has been temporarily suspended pending a hearing in the matter to consider whether sufficient grounds for revocation of the license exist. The licensee shall be notified, in writing, of the date of the hearing within seven (7) working days from the date of the Notice of Suspension. The date for such hearing shall be within forty-five (45) working days of the Notice of Suspension.

13:019-4 Upon revocation of a license, a hauler shall not be eligible to reapply for the same license for a period of two years from the date of revocation for cause.

13:019-5 Disposal of the contents of septic tanks, cesspools, vaults, or similar facilities shall be made in accordance with the arrangements, approved in the permit, for disposal at an approved sewage treatment facility. As a prerequisite to obtaining a license, evidence for such arrangements, including copies of any agreements with cooperating sewage treatment facilities, shall be submitted. The disposal of the contents of septic tanks, cesspools, vaults, or similar facilities into ditches, canals, rivers, lakes, pits, or other surface water courses is prohibited.

13:019-6 No person shall convey or cause to be conveyed through the streets, roads, or public waterways any contents from a septic tank, vault, cesspool, or privy, except in tight enclosed containers, so as not to be offensive to smell or injurious to health.

Non-Waterborne Systems

13:020-1 Non-waterborne systems, such as a pit toilet (or privy), vault, pail, or chemical toilet, incinerator toilet or composting toilet may be used when the State Health Officer determines that it is impractical or undesirable, i.e., such as water under pressure is not available, either to connect to an existing community-type sewerage system as specified in Section 13:011 or to construct or install a conventional septic tank system or individual mechanical plant and when in the opinion of the State Health Officer a non-waterborne system will function without creating a health hazard or nuisance.

13:020-2 Non-waterborne systems shall be located a safe distance from any well, spring or other source of water supply and, if possible, upon ground at a lower elevation. Such distances shall conform to the requirements of Chapter XII of this Code. In soil types or geological formations where sources of water supplies may be polluted, the State Health Officer may require the use of chemical toilets or concrete vaults in lieu of pit toilets.

13:020-3 Non-waterborne systems shall be properly maintained and operated. The following shall be considered defects in maintenance and operation of such installations:

1. Evidence of caving around the edges of the pit;
2. Signs of overflow or other evidence that the pit, vault, or pail is full;
3. Evidence of light entering the pit except through the seat when the seat cover is raised;
4. Seat cover not in place;
5. Broken, perforated, or unscreened vent pipes;

6. Uncleanliness of any kind in the toilet building.

Sub-Part E. Special Applications

13:021 A number of unique or special situations pose certain problems with respect to sewage disposal. These atypical cases are dealt with as follows:

1. Apartment complexes, condominium complexes, hotels, motels, and other such complexes shall be connected to a community sewerage system. A commercial treatment facility shall be provided when no existing community sewerage system capable of accepting the additional loading exists.

2. Single commercial structures, where less than 1,500 gpd total flow is expected, and where the connection to a community sewerage system to serve other loading sources as well is not required, may utilize either an individual or commercial sewerage system, provided minimum lot size requirements for the use of individual sewerage systems are met.

A commercial treatment facility shall be installed for business establishments where the preparation of food and/or drink is the primary business activity.

3. Treatment facilities for very small trailer parks which contain five (5) trailer spaces or less shall be sized at 400 gallons per day per trailer space.

4. Where a community sewerage system is not available, structures occupied three (3) days per week or less, and located in a marsh/swamp area or over water, may utilize a limited use sewerage system comprised of the following:

(A) a septic tank system consisting of three septic tanks in series (or an acceptable three-cell or three-compartment tank) followed by an automatic chlorination device/system. The first cell shall have a minimum liquid capacity of 500 gallons. The second and third cells shall each have a minimum liquid capacity of 250 gallons. Each of the three septic tanks (or each compartment of a three-cell tank) shall meet all design, material and construction requirements for septic tanks as described in Section 1 of Appendix A of this Chapter. In addition to the construction and material requirements in Appendix A, the following restrictions/exceptions shall also apply:

- a) metal tanks shall not be used;
- b) the tank(s) shall be demonstrated to be water-tight;
- c) fiberglass tanks shall be adequately coated to prevent deterioration by ultraviolet light;
- d) where multiple-compartment single tanks are used, only one access opening, of six inch minimum diameter, per cell shall be required; and
- e) tanks set below the normal high-water level, shall be anchored or otherwise secured against movement;
- f) the chlorination system shall be provided with a contact chamber of a minimum of 100 gallons, and shall be equipped with an automatic cutoff to prevent flow from the third septic tank/chamber if the chlorine supply is exhausted. Also, the effluent line from the chlorine contact tank shall be protected against entrance of small animals or other pests by use of a corrosion-resistant flap-type gate, screen, or other means approved by the State Health Officer.

5. Vessels: Vessels which are permanently moored shall be connected to an approved sewerage system.

Sub-Part F. Licensing Procedures For Installers and Manufacturers of Individual Sewerage Systems

13:022-1 Manufacturer License. A person who wishes to engage in the business or practice of constructing an Individual Mechanical Sewerage Treatment System, and who is responsible for having the system evaluated in compliance with Appendix A:6.4 of this Chapter, shall first obtain a license for each approved tested design of plant manufactured, from the State Health Officer.

13:022-2 Installer License. A person who wishes to perform installations or maintenance of individual sewerage systems shall first obtain the appropriate type of Individual Sewerage Installer License. Two types of licenses are offered:

- 1) a basic license for installation and maintenance of facilities other than individual mechanical plants, and;

- 2) a combination license which allows the installation and maintenance of individual mechanical plants as well. A combination license may be obtained only in conjunction with a basic license, and is considered to be a separate license.

13:022-3 Sub-manufacturer License. A person or entity authorized by a licensed manufacturer to construct, or assemble individual sewerage systems, or any portion thereof, prior to offering such systems for installation in Louisiana, is required to obtain an Individual Sewerage System Sub-Manufacturer License.

13:022-4 Application. Applications for an Individual Sewerage System Installer and/or Maintenance Provider License, as well as for Individual Sewerage System Sub-Manufacturer License, may be obtained from the nearest Parish Health Unit. Applications, including any required endorsements or certifications, must be submitted to the Sanitarian Program Administrator - Individual Sewage, Sanitarian Services Section, Office of Public Health. All licenses shall be issued by this office upon successful fulfillment of all application requirements and completion of any required examination(s), and shall be valid throughout the entire state.

13:022-5 Renewal. All licenses expire on January 31 of each year. Applications for renewal including all required endorsements must be received no later than December 1 of each year in order to insure timely renewal. The renewal of a license will be withheld from any applicant who has not complied with the requirements of this Chapter.

13:022-6 Suspension or Revocation of License. In addition to other remedies provided for by law, a license may be suspended upon determination by the State Health Officer of non-compliance with the requirements of this Code. In the event of suspension, notice shall be given to the licensee having committed said violation(s) that his license has been suspended pending an Administrative Hearing in the matter to determine whether sufficient grounds for revocation exist.

13:022-7 Reinstatement of License. Upon revocation of a license, an installer, maintenance provider, manufacturer, or submanufacturer shall not be eligible for any license for a minimum period of two years from the date of revocation for cause.

13:023-1 Installer/maintenance Provider Qualifications

A. For a basic license, the applicant shall submit, along with the license application and evidence of successful completion of an examination, an affidavit certifying that he has obtained, read, and understands the provisions of this Chapter of the Sanitary Code, including Appendix A of Chapter XIII, and the requirements for minimum distance to sources of contamination in Chapter XII and will make installations and/or provide maintenance in compliance therewith. Copies of a standard affidavit form and request for examination form may be obtained from any parish health unit.

B. For a combination license, the applicant shall submit, along with the license application and evidence of successful completion of an examination, an endorsement from the licensed manufacturer for the brand of plant he wishes to install and/or maintain, specifying that the applicant is qualified to install and/or maintain said plants, in compliance with the requirements of this Code. Applications will not be processed unless accompanied by the required endorsement.

C. All persons seeking to apply for a new license or renewal, must at their own expense, attend and successfully complete, a training course approved by the Sanitarian Services Section of the Office of Public Health, Department of Health and Hospitals as a prerequisite for licensure. This course will be offered at least once annually.

D. All licensees must successfully repeat this training course every five years.

E. A listing of training course dates, times and locations shall be maintained in the various regional offices by the Sanitarian Regional Directors.

F. In the event an approved training course is not available within 60 days, the Sanitarian Services Section may issue a temporary license provided the applicant meets all of the other requirements cited in this section and successfully completes an examination administered by the Sanitarian Regional Director. This temporary license shall terminate upon failure to attend the next available approved training course. Applicants who fail to attend the required training course shall not be issued another temporary license, but may reapply for a license upon successful completion of the required training course.

G. Applicants for an Installer/Maintenance Provider License shall submit, along with the license application, proof that they have secured, for at least the duration of the license, general liability insurance in an amount of no less than \$100,000/\$300,000.

13:023-2 Sub-manufacturer Qualifications

A. Applicants for a Sub-Manufacturer License shall submit, along with the license application, an endorsement from the manufacturer(s) for the brand(s) of plant(s) he wishes to construct, certifying that he is qualified to construct said plant(s) properly and in accordance with the requirements of this Code. Applications will not be processed unless accompanied by the required endorsement(s).

B. Applicants for a Sub-Manufacturer License shall submit, along with the license application, proof that they have

secured, for at least the duration of the license, general liability insurance in an amount of no less than \$100,000/\$300,000.

13:023-3 Manufacturer Qualifications

All licensed manufacturers must be in compliance with the requirements of Appendix A, Section A:6.

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APPENDIX A

Regulations Controlling the Design and Construction of Individual Sewerage Systems

I. Septic Tanks

A:1.1 A septic tank is a watertight tank made of steel, concrete or other approved materials in which the settleable solids of sewage settle out and are largely changed into liquids or gases by bacterial decomposition. The remaining residue in the tank is a heavy, black semi-liquid sludge which must be removed from the tank periodically. Although the completely digested sludge contains relatively few disease germs, in cleaning the tank it is impossible to remove the digested sludge without removing some undigested material. Therefore, it is particularly important that the removed sludge be disposed of in a safe manner. There are commercial service companies that will contract for septic tank cleaning and sludge disposal. Such commercial services are controlled by a permit system in accordance with Section 13:019 of the State Sanitary Code.

A:1.2 Multiple compartment septic tanks or single chamber septic tanks in series provide more effective treatment than single chamber tanks of the same total capacity; therefore, the use of multiple compartment tanks or single tanks in series is encouraged. However, single chamber septic tanks are acceptable.

A:1.3 The velocity of flow through the tanks must be such that maximum solids and scum retention is achieved. Vertical cylindrical tanks must have horizontal (inlet-to-outlet) separation of at least twenty-four inches.

Tees or baffles must be used at the inlet. The outlet must be designed so as to preclude floating solids from escaping from the tank. The inlet tee or baffle diverts the incoming sewage toward the bottom of the tank without disturbing the scum

which forms on the surface of the liquid, and the outlet prevents the surface scum from flowing out of the tank.

A:1.4 The minimum total septic tank liquid capacity required is two-and-one-half (2 1/2) times the estimated average daily design flow. Sewage loading criteria for determining the average daily design flow and organic loading are contained in Appendix B of this Chapter. One-bedroom residences may, however, utilize a 500 gallon tank. NOTE: The minimum allowable total septic tank volume for all applications is 500 gallons.

A:1.5 The distance between the inlet and outlet openings in the tank wall, measured horizontally, shall be not less than twenty-four inches. The distance between the inlet and outlet shall exceed the width of rectangular and oval-shaped tanks.

A:1.6 The tank shall operate with a liquid depth between a minimum of thirty inches and a maximum of seventy-two inches measured vertically from the invert of the outlet (overflow level) to the bottom of the tank. Recent septic tank studies have indicated the shallower tank to be more efficient and is therefore preferred.

A:1.7 For tanks having straight vertical sides, the dimension between the top of the tank and the liquid level shall not be less than fifteen percent of the liquid depth. In horizontal cylindrical tanks, the volume of the air space above the liquid shall not be less than fifteen percent of the liquid capacity. In the latter case, this condition is met if the liquid depth (distance from outlet invert to bottom of tank) is at least seventy-nine percent of the diameter of the tank.

A:1.8 A single tank may be divided into two or more compartments by means of internal partitions. Each compartment shall conform to the dimensions limitations for complete tanks and shall have a liquid capacity of at least two hundred fifty gallons. The total liquid capacity shall conform to the requirements for single chamber tanks. No tanks shall have more than three compartments.

A:1.9 The tank shall be constructed of materials which are corrosion resistant and provide a watertight permanent structure. The cover of the tank shall be designed for a dead load of not less than one hundred fifty pounds per square foot. Concrete covers must be reinforced with steel and must be not less than four inches thick. Metal septic tanks shall comply with the requirements of Section A:1.15. Tanks of other materials such as fiberglass will be reviewed for acceptance on an individual basis. They will be required to comply generally with the basic applicable standards for metal septic tanks.

A:1.10 Access to the septic tank for cleaning and inspection shall be provided by a removable cover or manhole. Both inlet and outlet devices as well as each compartment in multiple compartment tanks must be accessible. Manholes, when used shall be at least twenty inches square or twenty-four inches in diameter and provided with covers which can be sealed watertight. Septic tanks with removable covers must be provided with an eight-inch inspection hole over the inlet and the outlet.

A:1.11 Either tees or baffles shall be provided at the inlet of the tank and shall extend upward at least six inches above the

liquid level of the tank. The inlet tee or baffle shall extend downward to at least six inches below the liquid level, but it shall not extend below the level of the lower end of the outlet tee or baffle. At least two inches of open space shall be provided above the baffle or tee to provide ventilation to the tank through the building plumbing system.

A:1.12 On the outlet side the tee or baffle shall extend downward to a distance below the water surface equal to forty percent of the liquid depth of tanks with vertical sides and thirty-five percent of liquid depth of tanks of other shapes as measured to the nearest inch. If a tee or baffle is used in the outlet the upper end shall extend 6 inches above the liquid level.

A:1.13 Inlet and outlet fittings (tees or ells) must be of cast iron, schedule 40 PVC or ABS plastic or other approved material.

A:1.14 The invert of the inlet shall be located at least two inches above the invert of the outlet.

A:1.15 Metal septic tanks shall be prefabricated of a minimum of 14 gauge commercial grade steel. Corrosion protection shall, at a minimum, consist of a hot-dipped asphalt coating of at least 0.025-inch thickness properly applied to all surfaces of the new, clean, bare metal.

A:1.16 The location of a septic tank shall comply with minimum distance requirements from water wells, water lines, etc. as contained in Chapter 12, of this Code.

A:1.17 The use of septic tanks in series is encouraged. The first tank shall have at least a 500-gallon liquid capacity and all subsequent tanks shall have at least 300 gallon liquid capacities. The total capacity of all tanks in series must comply with the capacities for septic tanks as prescribed in Section A:1.4.

A:1.18 Piping from the house to the septic tank must be such that the waste flow does not disturb the retention of scum and sludge in the tank. To attain this, the inlet piping from the house must have a minimum diameter of four inches and be laid on a slope of at least one-eighth inch per foot. The slope for the last ten feet of line preceding the septic tank must not exceed one-fourth inch per foot. All plastic piping, excluding perforated pipe, must be a minimum of SDR 35 sewer and drainage pipe or equivalent.

A:1.19 Backfill around septic tanks must be made in thin layers thoroughly tamped in a manner that will not produce undue strain on the tank. Sufficient soil cover can be provided over the top of the septic tank to permit grass growth. However, no other obstruction to access (i.e., concrete slabs, buildings, etc.) shall be allowed.

A:1.20 Septic tanks should be inspected every six years and pumped at least every eight years by a licensed sewage hauler.

A:1.21 Untreated or uncoated metal septic tanks shall not be used.

A:1.22 Abandoned septic tanks (tanks no longer in active use) shall be pumped out by a licensed sewage hauler, then removed or the cover discarded and the tank filled with soil to natural grade. The contents of the abandoned tank shall not be placed into a newly installed individual sewerage system.

II. Septic Tank Effluent

A:2.1 There is a common belief that sewage after treatment in a septic tank is pure water, or very nearly so. This is false. The effluent or liquid flowing from the tank is still foul and dangerous. The septic tank cannot be depended upon to remove disease germs. The discharge of the effluent from septic tanks into street gutters, surface ditches, or streams is prohibited.

A:2.2 The treatment level of a septic tank is referred to as primary treatment.

A:2.3 The preferred method of treatment for septic tank effluents is accomplished through the use of soil absorption trenches. Small oxidation ponds or sand filter beds may be used in lieu of absorption trenches only where soil and drainage conditions or available space prevent the use of absorption trenches. The level of treatment of these units is referred to as secondary treatment.

A:2.4 The use of absorption trenches, oxidation ponds and filter beds for the treatment of septic tank effluents is discussed in detail in the following paragraphs of these standards.

III. Absorption Trenches

A:3.1 Where soil conditions are satisfactory and sufficient land is available, septic tank effluent shall be disposed of in absorption trenches. This consists of a system of covered gravel (or other approved aggregate) -filled trenches into which the septic tank effluent is applied so as to permit the liquid to seep into the soil. By action of microorganisms in the soil, the organic matter is converted into mineral compounds.

A:3.2 A number of variables determine whether an absorption trench is feasible, including: soil porosity (permeability), ground water table, available space, and the rate at which septic tank effluent enters the soil (percolation rate). In general three conditions should be met.

A. The soil percolation rate must be within the acceptable range.

B. The maximum elevation of the ground water table should be at least two feet below the bottom of the proposed trench system.

C. Clay formations or other impervious strata should be at a depth greater than four feet below the bottom of the trenches.

A:3.3 Unless these conditions are satisfied, the site is unsuitable for a subsurface sewage disposal system, and an alternative method must be utilized.

A:3.4 The acceptability of soil for an absorption trench system and the required size of such a system is currently based upon the "Percolation Test" described below.

A. Three or more tests must be made in separate test holes spaced uniformly over the proposed absorption field site.

B. Dig or bore a hole, with horizontal dimensions of from four to twelve inches and vertical sides to the depth of the proposed absorption trench. In order to save time, labor, and volume of water required per test, the holes may be bored with a four-inch auger.

C. Carefully scratch the bottom and sides of the hole with a knife blade or sharp-pointed instrument in order to remove any smeared soil surfaces and to provide a natural soil interface into which water may percolate. Remove all loose material from the hole.

D. To conduct the test, fill the hole with clear water. This pre-wetting procedure should normally be accomplished on the day prior to the percolation rate measurement. This procedure is to insure that the soil is given ample opportunity to swell and to approach the operating condition of the wet season of the year. Thus, the test should give comparable results in the same soil whether made in a dry or in a wet season.

E. With the exception of sandy soils, percolation rate measurements shall be made on the day following the procedure described under Subparagraph D above. Add water until the liquid depth is at least six inches, but not more than twelve inches from a fixed reference point. Measure the drop in water level over a sixty- minute period. This drop is used to calculate the percolation rate. Figure 1 shows methods of percolation rate measurement. If the drop in liquid depth in the first thirty minutes is less than one inch, it is unnecessary to continue the test for the full sixty-minute period.

F. The distance the water falls in sixty minutes in each of the three test holes is recorded. The average drop for the three holes is used to determine the total length of absorption trench from Table 1 below.

TABLE 1
Absorption Trench Length Requirements
For Individual Residences

Average Water Level Drop in 60 Minutes (in inches)	Length (in Feet) of Absorption Trenches Required per Bedroom*
More than 12	72
2	83
11	87
10	91
9	96
8	100
7	104
6	110
5	117
4	127
3	142
Less than 3	Not acceptable for absorption field

NOTE: A minimum of 160 linear feet of field line shall be provided.

* -or per 150 gpd of design flow for non-residential applications.

A:3.5 Many different designs may be used in laying out an absorption trench system. The choice will depend on the size and shape of the available disposal area, the capacity required and the topography of the area.

A:3.6 The septic tank effluent is applied to the absorption field through a system of level bottomed trenches. Conventional field lines are laid on a slope of two to three inches per 100 feet. Gravelless pipe and other distribution chambers must be laid as close as possible to a slope of one inch per 100 feet. A distribution box may be required for equal distribution of the effluent. Figure 2 and 3 show a typical layout of a conventional absorption trench system for flat and sloping areas.

A:3.7 To provide the minimum required backfill depth and earth cover, the depth of the absorption trenches must be a minimum of eighteen (18) inches. Additional depth may be needed for contour adjustment for extra backfill under the distribution line or for other design purposes. However, the total depth must not exceed twenty-four inches.

A:3.8 Careful construction is important in obtaining a satisfactory soil absorption system. Figure 4 shows details for absorption trench construction.

A:3.9 Individual trenches shall not be greater than 100 feet in length and not less than 18 inches in width. The center line distance between individual trenches shall be at least six feet. In addition, the absorption trenches shall be located at least ten feet from any dwelling or property line.

A:3.10 The location of the absorption trenches shall comply with minimum distance requirements from water wells, water lines, etc., as contained in Chapter 12 of this Code.

A:3.11 In every case, at least two trenches shall be used.

A:3.12 Trench bottoms must be level to promote even distribution, thereby minimizing premature failure of a portion of the trench. During excavation, attention must be given to the protection of the soil. Care must be taken to prevent sealing of the surface on the bottom and sides of the trench. Trenches should not be excavated when the soil is wet enough to smear or compact easily. All smeared or compacted surfaces must be raked to a depth of one inch and loose material removed before the backfill is placed in the trench.

A:3.13 Conventional field lines shall consist of perforated non-metallic pipe meeting one of the following standards: PVC sewer pipe and fittings (Thin wall), ASTM D2729-93 Smooth wall polyethylene (PE) pipe, ASTM F810-93, for use in waste disposal absorption fields; SRP pipe and fittings, ASTM D2852-93.

In every case, the minimum acceptable diameter is four inches. Although the trench bottom is level, conventional field pipes must be laid on a slope of between two to three inches per 100 feet to provide even distribution of the liquid throughout the trench.

A:3.14 Where conventional field pipe is used, it must be surrounded by clean graded gravel or rock, broken, hard-burned clay brick or similar material. The bed material may range in size from one-half inch to 2.5 inches. The gravel must extend from at least two inches above the top of the pipe to at least six inches below the bottom of the pipe. The top of

the stone should be covered with either untreated building paper, or similar pervious material to prevent the gravel from becoming clogged by the earth backfill (See Figure 4).

A:3.15 Where gravelless pipe or distribution chambers are 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. Only gravelless pipe or other distribution chambers specifically approved for use in Louisiana by the State Health Officer may be used. The total length of gravelless distribution products required is the same as for conventional absorption trenches.

A:3.16 For an absorption trench to work properly, it must have access to air, generally through the soil interstices of the backfill. Therefore, the absorption trench should be backfilled with four to twelve inches of pervious soil, hand-tamped and then overfilled with about four to six inches of earth. Care should be taken to avoid compacting of the backfill.

A:3.17 All of the above listed requirements, with the exception of the protection of water supplies, are aimed at preventing absorption trench clogging and premature failure. In addition, the septic tank should be inspected every six years after installation and pumped, as necessary, to prevent solid overflow to the soil absorption system and subsequent clogging and failure.

A:3.18 Absorption trenches shall not be located:

- A. beneath driveways, parking or other paved areas;
- B. in areas that may be subjected to passage or parking of heavy equipment or vehicles, or storage of materials;
- C. beneath buildings or other structures.

IV. Oxidation Ponds

A:4.1 An oxidation pond is a shallow pond designed specifically to treat sewage by natural purification processes under the influence of air and sunlight. The stabilization process consists largely of the interactions of bacteria and algae. Bacteria digest and oxidize the constituents of sewage and render it harmless and odor free. Algae utilize carbon dioxide and other substances resulting from bacterial action and through photosynthesis produce the oxygen needed to sustain the bacteria in the treatment process.

During the detention period, the objectionable characteristics of the sewage largely disappear.

A:4.2 The minimum surface area of an oxidation pond must be no less than 400 square feet (twenty feet by twenty feet) with a four to five foot average liquid depth and vertical side walls. This minimum size pond is adequate for design flows of up to 400 gallons/day (gpd). For design flows in excess of 400 gpd, the pond area must be increased to provide sufficient volume (at the four foot depth) to hold 30 days worth of flow (a 30-day retention period). For wastes with high BOD loadings, special consideration for increasing pond size must be given.

A:4.3 Figure 5 shows a typical layout for a septic tank-oxidation pond system. The actual layout of any pond system will be governed to a great extent by the topography of the particular location. However, an oxidation pond must be located so as to comply with the minimum distance

requirements from water wells, lines, etc., as contained in Chapter 12 of this Code. It is also desirable for aesthetic reasons to locate it as far as possible, but at least fifty feet from any dwelling and no less than twenty feet from the property line to water's edge at normal operating line.

A:4.4 As mentioned, the use of the minimum surface area of 400 square feet requires that an oxidation pond be furnished with vertical side walls so that an adequate volume for treatment is provided. Figure 6 shows a type of construction utilizing treated timber which under normal soil conditions is acceptable for the vertical side walls of a twenty foot by twenty foot oxidation pond with a five foot average water depth. Figure 7 shows a similar type of construction utilizing concrete blocks. Either of these designs requires very little maintenance.

A:4.5 Vertical side walls must be of cypress or treated timbers or concrete blocks and so constructed as to provide a permanent structure.

A:4.6 Although not encouraged, a pond may be constructed with sloping sides and earthen levees. Such a design is shown in Figure 8. The design requires a minimum surface area of 625 square feet (25 feet by 25 feet) with a five foot liquid depth at the center in order to achieve the required volume. The cost of this design is less than that of the vertical wall ponds referred to above, but more space is needed and routine maintenance requirements such as levee mowing are greater. The slope of the natural earth side walls must not be shallower than one-to-one (forty-five degree angle). (See Figure 8.)

A:4.7 A septic tank must precede the oxidation pond and must comply with the septic tank requirements presented in these regulations.

A:4.8 The pipe from the septic tank to the pond as well as the outfall pipe from the pond must be at least four inches in diameter and placed at a minimum slope of two inches per 100 feet. The inlet must extend four to six feet horizontally into the pond and be directed downward at least 1-1/2 to 2 feet below the liquid surface level. The outlet must extend four to six feet horizontally into the pond and consist of a tee with the invert set at the operating water level of the pond. One leg of tee must be open and extend above the water level, while the down leg is extended 1-1/2 to 2 feet below the water level. The invert of the pond outlet must be lower than the pond inlet invert. (See Figure 8.) Additionally the invert of the pond inlet must be at least two inches lower than the invert of the septic tank outlet.

A:4.9 The pond shall be enclosed by a suitable non-climbable fence to keep out children, pets and livestock. An open type fence (woven wire) is preferable because it will not restrict sunlight and air which are necessary for the treatment. The fence shall be at least five feet in height and be provided with a locked gate.

A:4.10 Abandoned oxidation ponds (ponds no longer in active use) shall be dewatered, allowed to dry and then filled with soil to natural grade.

V. Sand Filter

A:5.1 Another alternative for the secondary treatment of septic tank effluent is a deep-type sand filter bed. Treatment in a sand

filter bed is accomplished by the action of microorganisms in a sand bed in which the suspended solids of the septic tank effluent have been trapped by filtration. It is important that the sand bed remain aerobic throughout the treatment process. This is accomplished by exposing the sand surface to the air as much as possible on a continuous basis. Of course, the best way this can be done is to place no cover whatsoever over the sand bed. Since this is not aesthetically desirable for homes, a coarse gravel cover of clean, washed gravel, not to exceed six inches in depth over the bed is permitted. No other cover is acceptable. A filter bed system is shown in Figure 9.

A:5.2 The sand filter bed is constructed by placing perforated pipe near the bottom of a rectangular area of the required size in a layer of gravel covered by a layer of coarse sand twenty-four inches deep. On top of this are placed distribution lines (perforated pipe) likewise encased in a layer of gravel. (See Figure 10). The septic tank effluent is distributed speedily in the gravel cover spreading over the top of the sand seeping slowly and vertically through the sand to the bottom layer of gravel to be carried away in the under drain line.

A:5.3 Sand filter beds are to be constructed with a minimum width of twelve feet and a minimum length of twenty-five feet. This minimum size filter bed is adequately sized for design flows of up to 400 gpd. For greater design flows, the required length shall be increased by eight feet for each additional 150 gpd or portion thereof.

A:5.4 The bed must be drained completely. This may require the bed to be raised above natural ground level.

A:5.5 To prevent sand infiltration into the underdrain, a layer of graded gravel must be placed over the underdrain line and the entire bottom of the filter bed. All gravel must be clean and washed.

A:5.6 Filter sand shall conform to the following standard specifications:

U.S. Sieve Size	Tyler Screen Size	% Passing (By Weight)
Number 4	Number 4	95-100
	Number 14	60-80
Number 16	Number 28	5-20
Number 50	Number 48	0-5
Number 100	Number 100	0

A:5.7 At least two distribution lines must be provided and they must be sloped two inches to three inches per 100 feet. The lines must be four-inch diameter, twenty-inch long farm tile, two feet to three-foot lengths of vitrified clay bell-and-spigot sewer pipe laid with open joints, or perforated nonmetallic pipe meeting one of the standards cited in A:3.13. The ends of the distribution lines must be half-closed. (See Figure 10).

A:5.8 Underdrain pipe materials are the same as those for the distribution pipe, however, the slope must be no less than four inches per 100 feet.

A:5.9 The filter bed must be appropriately protected from surface runoff water.

A:5.10 The filter bed must be located no less than ten feet from the property line.

A:5.11 The location of the filter bed shall comply with minimum distance requirements from water wells, water lines, etc., as contained in Chapter 12 of this Code.

VI. Mechanical Waste Water Treatment Plants

A:6.1 Mechanical wastewater treatment plants are small plants capable of providing primary and secondary treatment of sanitary sewage. All are considered to be aerobic treatment units.

A:6.2 An individual mechanical plant will be permitted where individual sewerage systems would currently be permitted under prevailing rules as set forth in this Chapter of the State Sanitary Code. Sewage loading criteria for determining the average daily design flow and organic loading are contained in Appendix B of this chapter.

A:6.3 An individual mechanical plant will be permitted in lieu of a conventional septic tank system (septic tank/absorption field) only in accordance with the provisions of Section 13:011-2 of this Code, and where a conventional septic tank system could not be permitted.

A:6.4 Permitted individual mechanical plants shall strictly comply with National Sanitation Foundation International Standard, NSF 40-1996 for Residential Wastewater Treatment Systems (Class I Systems) as revised May 1996 and published by NSF International, P.O. Box 130140, Ann Arbor, Michigan 48113-0140 USA, and as has been approved by the American National Standards Institute, 11 West 42nd Street, New York, New York 10036 as standard ANSI/NSF 40-1996, revised May 28, 1996.

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 January 1, 2000. Until January 1, 2000, plants shall continue to comply with the standards under which they were approved. Effective January 1, 2000, all plants shall comply with the standard as stated in paragraph 6.4.

A:6.6 In addition to evidence of strict compliance with NSF International Standard NSF 40-1996 (Class I Systems), and ANSI/NSF 40-1996 (Class I Systems), as are specified in A:6.4 of this code, the following Department of Health and Hospitals/Office of Public Health (DHH/OPH) requirements shall also apply.

A. Testing/Evaluation (General)

All certifications of individual mechanical plants shall be conducted by an American National Standards Institute (ANSI) accredited certification program testing/evaluation facility authorized for such purpose(s). Verification of such certification shall be provided to DHH/OPH, subject to acceptance by DHH/OPH of such verification, as prerequisite to consideration of any individual mechanical (residential) plant for permitting in Louisiana.

Evidence of acceptance by DHH/OPH of an ANSI accredited testing/evaluation facility, for purpose of

testing/evaluation of individual mechanical (residential) plant(s) for permitting in Louisiana shall be demonstrated upon execution of an appropriate Memorandum of Understanding (MOU), or other, similar contractual instrument, subject to terms and conditions as may be imposed by DHH/OPH - said MOU to be between DHH/OPH and the testing/evaluation facility.

Successful completion of testing/evaluation of an individual mechanical (residential) plant in accordance with applicable provisions of this Code, having been properly tested/evaluated and certified by an appropriate facility, shall serve to allow the DHH/OPH authorization of an individual mechanical (residential) plant for permitting purposes in Louisiana for a period not to exceed seven (7) years from the date of such DHH/OPH authorization, or until such time as an appropriate revision to the prevailing testing/evaluation standard for such purposes may become revised. Such authorization of an individual mechanical (residential) plant for permitting purposes in Louisiana shall be in the form of a written license by DHH/OPH to a manufacturer of such individual mechanical (residential) plant(s), subject to compliance with applicable provisions of this Code - such license to be valid for the specified period, annually renewable, and suspendable/revocable by DHH/OPH in accordance with license revocation procedures as specified in 13:022-6.

B. Licensing

In addition to evidence of compliance of an individual mechanical (residential) plant having been properly tested/evaluated and certified by an appropriate facility, certain additional requirements shall serve as a basis for licensing by DHH/OPH of such individual mechanical (residential) plant in Louisiana. These additional requirements shall apply, as appropriate, to the manufacturer and/or manufacturer representative, agent, sub-manufacturer or other associated entity, as appropriate, involved in the manufacture, marketing, sale, installation and/or maintenance of such (any) individual mechanical (residential) plant(s) in Louisiana. Further, with respect to the testing/evaluation facility which may have certified the individual mechanical plants being in compliance with the testing/evaluation standard contained herein, certain additional requirements, for licensing purposes, shall apply.

These additional requirements are specified as follows.

(1) Testing/Evaluation Facility Responsibilities

In addition to providing testing/evaluation services with respect to individual mechanical (residential) plants scheduled for manufacture, marketing, sale, installation and maintenance in Louisiana, the testing/evaluation facility shall also serve to provide oversight liaison services both to the manufacturer of the individual mechanical (residential) plant, as well as to DHH/ OPH. However, DHH/OPH communication with the testing facility will be at the OPH Program Manager level, or higher. While it is recognized that the testing/evaluation facility may exercise its fiduciary right to exact such fees or other reimbursement costs as appropriate from a manufacturer (client), under no circumstances may the testing/evaluation

facility exact such fees or other reimbursement costs from DHH/OPH in order to compensate for any of these regulatory requirements. Accordingly, the following requirements shall be included in the MOU.

(a) It shall be required that all individual mechanical (residential) plant manufacturers will be inspected annually by the testing/evaluation facility having certified the related individual mechanical (residential) plant and that DHH/OPH shall be, upon request, furnished with copies of all reports of such inspections, which shall include at a minimum the verification (or re-verification) of all "forms" used in the manufacture (or sub-manufacture) of individual mechanical (residential) plants.

(b) It shall be required that a representative number, up to four (4) but in, no case more than 10 percent, of all manufacturers authorized sub-manufacturers of individual mechanical (residential) plants will be inspected annually by the testing/evaluation facility having certified the related individual mechanical (residential) plant and that a report shall be retained by the testing/evaluation facility and shall, upon request by DHH/OPH, make such information available to DHH/OPH, which shall include at a minimum the verification of service records for all related individual mechanical (residential) plant installations and availability of stand-by parts.

(c) It shall be required that a representative number of installations in Louisiana, but in no case less than ten (10), of all individual mechanical (residential) plants manufactured by manufacturers and their respective sub-manufacturers will be inspected annually by the testing/evaluation facility having certified the related individual mechanical (residential) plant and that a report shall be retained by the testing/evaluation facility and shall, upon request by DHH/OPH, make such information available to DHH/OPH, which shall include at a minimum the verification (or re-verification) that individual mechanical (residential) plants and their respective installation(s) are in conformity with the plans and specifications as are reflected in the testing/evaluation report which was approved for the related individual mechanical (residential) plant.

(d) It shall be required that copies of all inspection/audit reports conducted by a testing/evaluation facility with regard to a client-related manufacturer (or sub-manufacturer) of individual mechanical (residential) plants will be retained by the testing/evaluation facility and shall, upon request by DHH/OPH, make such information available to DHH/OPH upon completion of said report(s).

(e) It shall be required that copies of all reports of non-compliance and/or reports of complaint(s) investigations by a testing/ evaluation facility with respect to a client-related manufacturer (or sub-manufacturer) of individual mechanical (residential) plant(s) will be retained by the testing/evaluation facility and shall, upon request by DHH/OPH, make such information available to DHH/OPH upon completion of said report(s).

(f) It shall be required that any modification(s) to an individual mechanical (residential) plant, once certified by an

ANSI accredited testing/evaluation facility, shall be subject to re-evaluation by the testing/evaluation facility and that written acceptance of the change by the ANSI accredited testing/evaluation facility shall be received by the manufacturer prior to incorporating the change; this information also to be transmitted to DHH/OPH.

(g) In the event that the original testing/evaluation facility no longer conducts testings/evaluations and certifications of individual mechanical (residential) plants for a specific manufacturer, it will be the responsibility of the testing/evaluation facility to insure an orderly transfer of the documentation supporting certification to the manufacturer for transmittal to another ANSI accredited testing/evaluation facility at the manufacturers choice.

(2) Manufacturer/Sub-Manufacturer Responsibilities

In addition to other, related requirements of this Code as pertain to the manufacture, marketing, sale, installation and maintenance of individual mechanical (residential) plant(s) in Louisiana, the manufacturer (or sub-manufacturer, or installer, as appropriate) of an individual mechanical plant shall also be responsible for insuring compliance with the following:

(a) It shall be required that the manufacturer/sub-manufacturer shall annually inspect at least 10 percent of its authorized installers in Louisiana of certified individual mechanical (residential) plants (products) and shall provide written reports of such inspections, which shall minimally address certain matters specified by DHH/OPH, both to the testing/evaluation facility of record as well as to DHH/OPH.

(b) It shall be required that the manufacturer/sub-manufacturer(s) installers of individual mechanical (residential) plant(s) must maintain a current list of all sales/installations of individual mechanical (residential) plants and shall, upon request by DHH/OPH, make such information (i.e., name, address of purchaser, date of sale, etc.) available to DHH/OPH.

(c) It shall be required that manufacturers/sub-manufacturers/installers, as appropriate must provide a minimum two (2) year service policy to the purchaser of each individual mechanical (residential) plant purchased/ installed at no additional cost, with verification provided to DHH/OPH and the purchaser, of such service policy provision. The initial policy shall contain provisions for four inspection/service visits (scheduled once every six months over the 2-year period) during which electrical, mechanical, and other applicable components are inspected, adjusted, and serviced. The initial service policy shall also contain provisions for an effluent quality inspection consisting of a visual assessment of color, turbidity, and scum overflow, and an olfactory assessment for odor.

(d) It shall be required that the manufacturers/sub-manufacturers/installers, as appropriate must make available (subject to the purchaser's right of refusal) an extended service/maintenance agreement with terms comparable to those in the initial service policy, in writing.

(e) The manufacturer/sub-manufacturer shall insure that the individual mechanical (residential) plant and its component parts are properly and easily identified.

(f) The manufacturer/sub-manufacturer shall secure such license(s) as may be required by other, applicable provisions of this Code for purpose(s) of manufacture, marketing, sale, installation and/or maintenance of individual mechanical (residential) plant(s) in Louisiana - such license(s) requirement(s) to include, at a minimum as condition of licensure, the verifiable imposition of such insurance, bonding and related requirements as may become stipulated by DHH/OPH for purpose(s) of such related business activities conduct in Louisiana.

(g) Manufacturers shall specifically authorize the ANSI accredited testing/evaluation facility to release to DHH/OPH all of the documentation outlined in terms (1) (a) through (g) above.

C. Certification

Licensing will be based on a two phase Certification process, as follows:

(1) Initial Certification: Consisting of evidence of successful completion of the herein prescribed testing of an individual mechanical (residential) plant, by the appropriate ANSI accredited testing/evaluation facility conjunctive with an actual onsite physical inspection and audit of all plant manufacturer (company) and sub-manufacturer facilities and production locations by the appropriate ANSI accredited testing facility.

(2) Continuing Certification: Consisting of evidence of an annual re-certification, re-inspection and re-audit by the ANSI accredited testing/evaluation facility of all plant manufacturers (company) and sub-manufacturer facilities and production locations, as well as an evaluation of a representative number (no less than four) of all manufacturers authorized distributors and plants (units/models) sold and installed, with report(s) of such evidence available to DHH/OPH upon request.

A:6.7 Persons proposing to sell individual mechanical plants for installation in Louisiana shall submit an evaluation report indicating compliance with ANSI/NSF Standard Number 40 and obtain approval from the Department of Health and Hospitals, Office of Public Health, P.O. Box 60630, New Orleans, Louisiana 70160, prior to selling/installing plants in the state. The compliance evaluation report shall be prepared by an ANSI certified testing laboratory as required in paragraph 6.4, and shall include positive identification of all owners, officers, agents, stockholders, contractors, sub-contractors, as may be in any manner or by any means associated with the entity seeking a permit.

A:6.7-1 Upon approval of an evaluation report by the Department of Health and Hospitals, Office of Public Health, the subject individual mechanical plant may be permitted for use in Louisiana. The Office of Public Health will maintain a list of licensed Manufacturers and respective individual mechanical plants permitted for sale/installation in the state.

A:6.7-2 Any alteration or modification of an individual mechanical plant without the certification of the ANSI certified testing laboratory and subsequent approval of DHH-OPH shall constitute a violation of this section and shall be grounds for suspension/revocation of any permit or license held by each

person responsible for such changes, alterations or modifications.

A:6.8 Licenses shall remain valid subject to the following:

(a) No person involved with the testing facility either directly or indirectly, may become an owner, partner, or stockholder of any company holding any license to manufacture, submanufacture, install or maintain individual mechanical treatment plants in Louisiana within two years of the approval date of said plant by the Office of Public Health.

(b) Should a change of ownership occur, the manufacturer license for such plant shall be rescinded.

(c) The licensed Manufacturer shall submit to the Office of Public Health, not later than January 31 of each year, proof that they have secured general liability insurance in an amount of not less than \$1,000,000.

(d) The licensed Manufacturer shall be responsible for assuring that their mechanical plants are sold only to licensed submanufacturers and installers in order to prevent the installation of their plants by unauthorized persons.

A:6.8-1 Persons appealing the denial of their application under the Administrative Procedure Act shall post a cost bond prior to the scheduling of such hearing. The plaintiff shall forfeit the cost bond to the state when said appeal is denied by the hearing officer. The hearing officer is to determine the amount of the cost bond, on a per diem basis. The costs shall include room rental, hearing officer fees, court reporter fees, and transcript costs.

A:6.9 Individual mechanical plants and all components must be installed in compliance with the minimum separation requirements for water wells and appurtenances as required in Chapter XII of this Code.

A:6.9-1 Individual mechanical plants should be installed at least ten feet from the property line.

A:6.10 Determination of compliance with NSF Standard Number 40 requirements and/or additional related requirements provided for in this Appendix shall be the responsibility and sole authority of the State Health Officer acting through the Office of Public Health.

Part B. Warranty/Maintenance/Service Provisions

A:6.11 The "Individual Mechanical Plant Initial Warranty Inspection/Service Report" must be submitted to the State Health Officer after each warranty/maintenance inspection is completed by the maintenance provider, and will become part of the permanent record for each system. A maintenance contract shall be offered to the owner after the initial two-year service contract expires in accordance with National Sanitation Foundation Standard Number 40 relating to Residential Wastewater Treatment Systems, adopted by the Board of Trustees of the National Sanitation Foundation (NSF), Ann Arbor, Michigan, as revised May 1996. The maintenance provider shall notify the State Health Officer whenever an extended service contract has been negotiated.

A:6.12 The owner is responsible for perpetual maintenance of the sewerage system and components thereof. Proof of perpetual maintenance of the system shall be provided in the form of an extended service contract.

VII. Sanitary Pit Privy

A:7.1 Where a dwelling is not served with water under pressure, water carriage waste systems as covered herein can not be used. In these cases, a pit privy or other non water-borne system is required for excreta disposal.

A:7.2 Pit privies, when used, shall be located so that they will not pollute domestic, private, or public water supplies. To accomplish this, they must be located on the downgrade from water wells and water supply lines and in accordance with the minimum distance requirements as contained in Chapter 12 of this Code. Pit privies must be located at least four feet from any fence, ditch or building to give room for a proper earth mound. They must be housed as separate units and must be located at least ten feet from the property line.

A:7.3 Details of the construction and maintenance of approved pit privies may be obtained by referring to a pamphlet entitled "Louisiana Type Sanitary Pit Privy" which is available through the Department of Health and Hospitals, Office of Public Health, P. O. Box 60630, New Orleans, Louisiana 70160.

VIII. Pumping Stations

A:8.1 When the elevation of a site prevents the use of gravity flow to convey liquid from one location to another, a pumping station (Figure 22), consisting of a holding tank, pump(s), piping, electrical controls, and other equipment as necessary, must be provided.

A:8.2 Many manufacturers build pumps, and in some cases complete pump stations, for the special purpose of handling wastewater, either raw, partially treated, or treated. Such specially built pump stations may be used, provided all other code requirements are met.

A:8.3 Pumps utilized in pump stations must be suitable for the specific application proposed. Pumps must be provided with impellers and casings constructed of corrosion resistant materials.

A:8.4 Pumps shall be provided to accommodate required elevation and hydraulic heads and peak flow rates, and be cycled in a manner not to be unduly disruptive to any downstream system.

A:8.5 The pump station holding tank must be constructed of materials suitable for septic tank use in accordance with Sections A:1.9 and A:1.15 of this Chapter. Additionally, molded fiberglass, reinforced polyester (FRP) resin tanks having a minimum wall thickness of 1/4" are also acceptable.

A:8.6 Holding tanks shall be constructed and installed with suitable foundations to prevent settling due to soil conditions or floating of the tank due to high water table elevations.

A:8.7 Pump station holding tanks shall be constructed and installed so as to be watertight. All wall seams, seams between walls and tank floor, and openings such as for pipes and wiring shall be sealed watertight. Additionally, all holding tank covers and access openings shall be attached in watertight manner by gaskets or grooves and should be sufficiently above the ground, but in no case less than three (3) inches above ground, to prevent the entrance of surface runoff water.

A:8.8 The holding tank shall have a minimum diameter or dimension of twenty-four (24") inches. The cover shall be equipped with an access opening of sufficient size to allow for pump maintenance and removal, but in no case less than twelve (12") inches in diameter or dimension.

A:8.9 Pumps shall be installed in such a manner as to allow for removal and/or maintenance of the pump without necessitating entry into the holding tank by maintenance personnel. Pumps shall be provided with suitable means of quick, convenient disconnection from discharge piping and electrical wiring. Provisions must be made for lifting the pump from the holding tank with minimal exposure to the liquid in the tank.

A:8.10-1 Suitable level control devices for use in the harsh, corrosive environment encountered, shall be provided to control pump operation. The level controls shall provide for the following functions: "pump off," "pump on," and "high water alarm."

A:8.10-2 All materials utilized within the holding tank, whether above or below water level, shall be constructed of materials resistant to corrosion from the hostile operating environment of the tank.

A:8.10-3 An audible and visual "high water alarm" shall be provided and shall be located in a conspicuous location. A reset button should be provided for the audible signal in a convenient location so that relief can be easily obtained.

A:8.10-4 The "pump off" level shall be set at the minimum elevation as recommended by the specific pump's manufacturer.

A:8.10-5 The "pump on" level shall be set at elevation to provide a minimum working volume of ten (10 percent) per cent of the average daily design flow of the treatment system.

A:8.10-6 The "high water alarm" level shall be set so as to provide for a net storage volume between the "pump on" level and the "high water alarm level" of ten (10 percent) per cent of the average daily design flow of the treatment system.

A:8.10-7 A reserve volume may be provided between the "high water level" and the invert of the inlet pipe to the holding tank, if so desired.

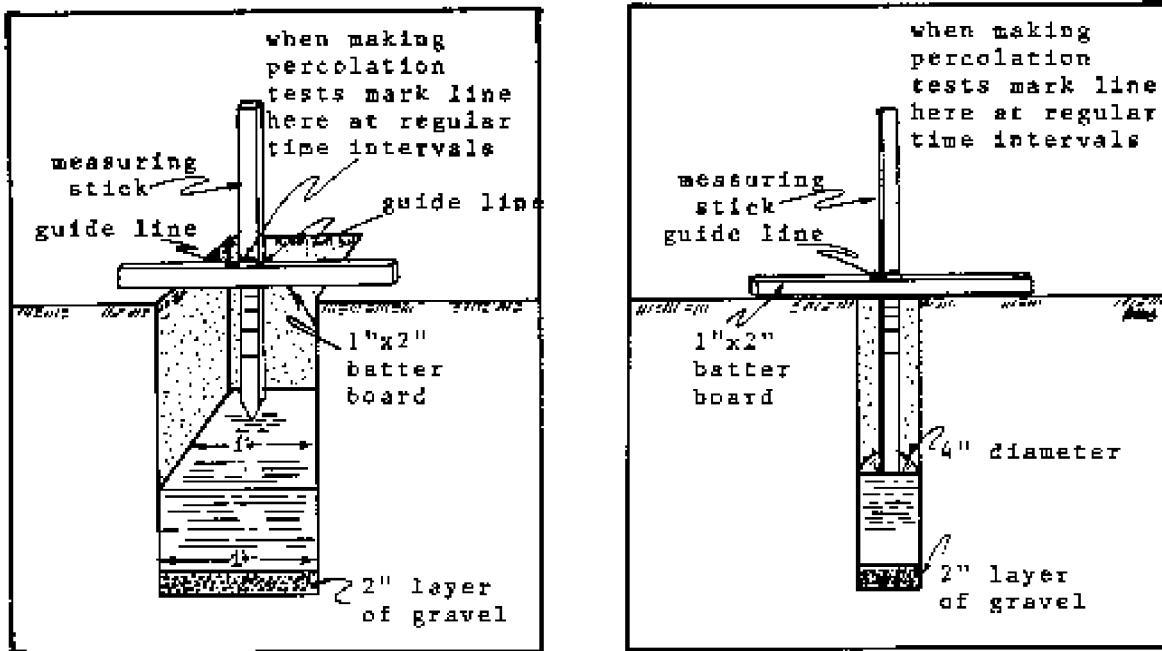
A:8.11-1 All electrical wiring and controls must be appropriate for the applications for which they are used and meet prevailing electrical codes. Due consideration for the exposure to a harsh environment and the need for watertight connections and conduit must be accounted for in all electrical work.

A:8.11-2 Electrical connections to the main panel in the house must be made according to prevailing electrical codes.

A:8.11-3 The pump must be wired for automatic level control with a manual override located at the control panel.

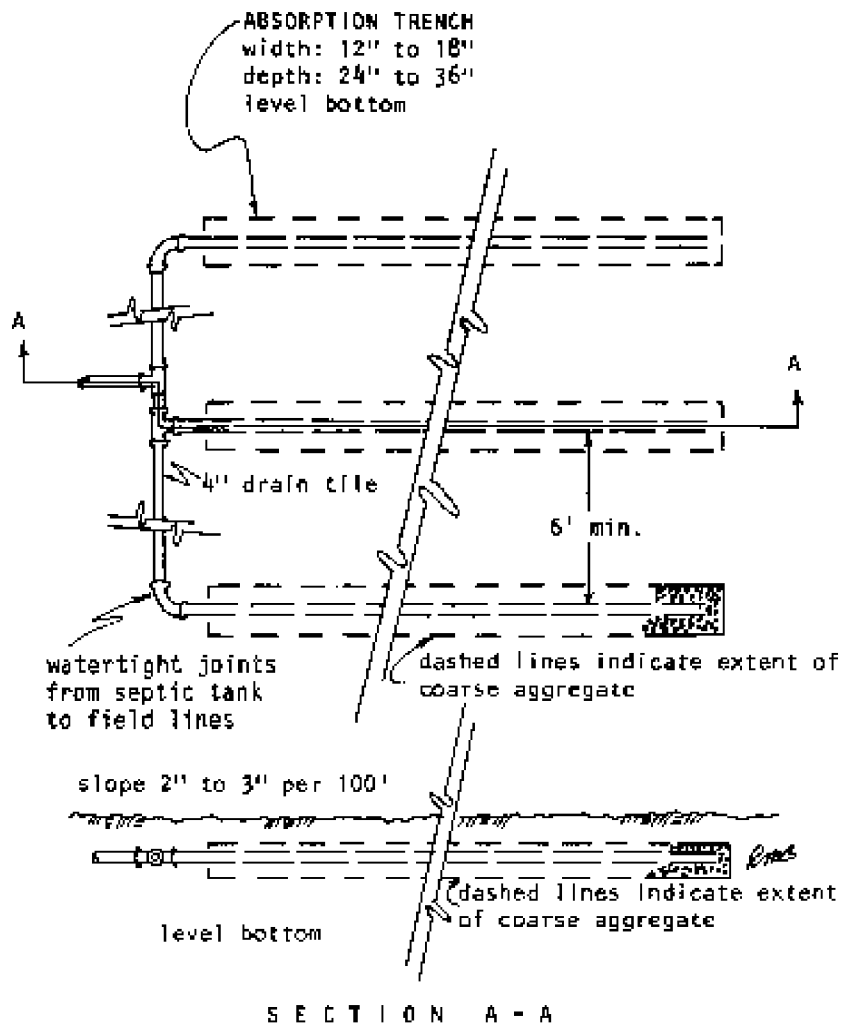
A:8.12 Raw sewage pumps and piping must accommodate the passage of two-inch solids.

A:8.13 Suction and discharge piping for sewage effluent pumps must conform to the pump manufacturer's recommendations. However, piping should not be less than 1.25 inches in diameter and be capable of withstanding a pressure of 75 psi.



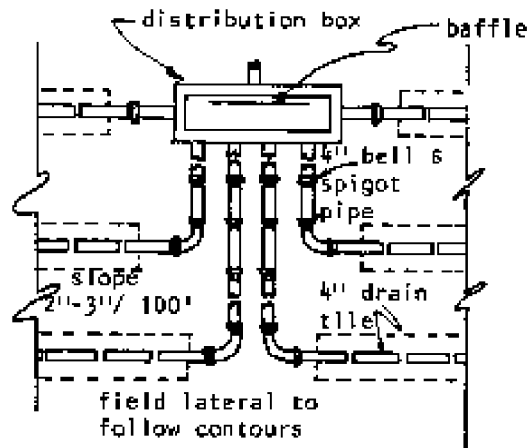
- NOTE: 1. Leave batter board in place, being careful not to move it during tests.
2. Keep measuring stick within guide lines on batter board when each reading is taken.

FIGURE 1
METHODS OF MAKING PERCOLATION TESTS

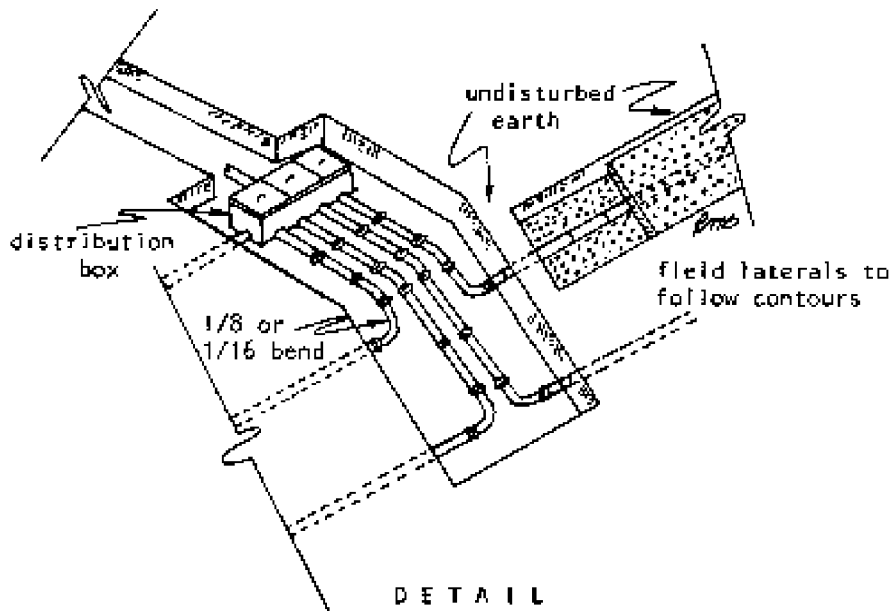


NOTE: See Figure 4 for additional details

FIGURE 2
TYPICAL LAYOUT OF ABSORPTION TRENCH



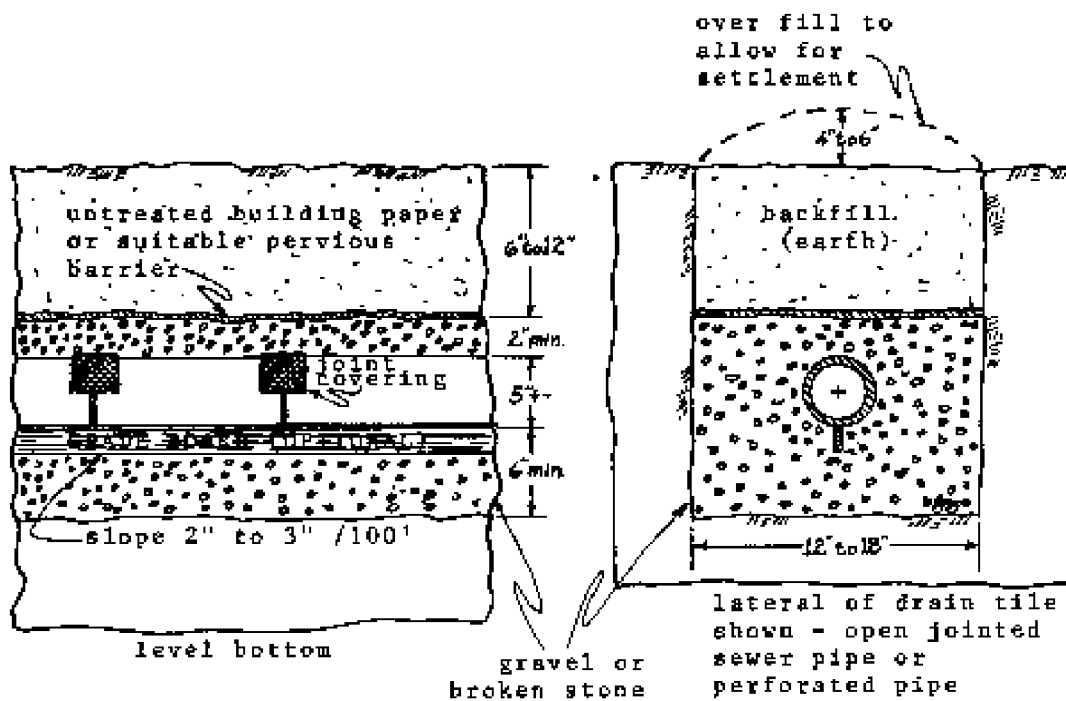
P L A N



D E T A I L

NOTE: See Figure 4 for additional details

FIGURE 3
ABSORPTION FIELD SYSTEM FOR SLOPING GROUND

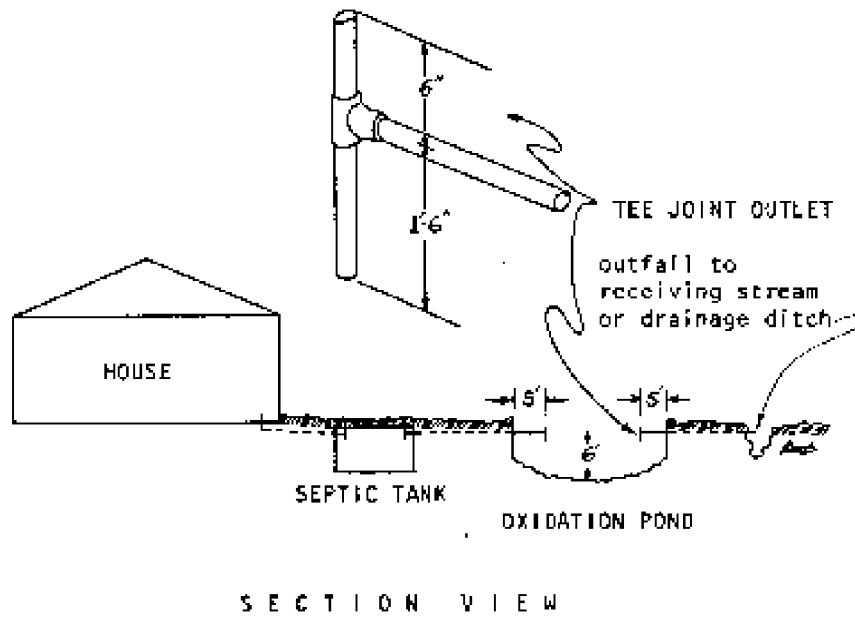
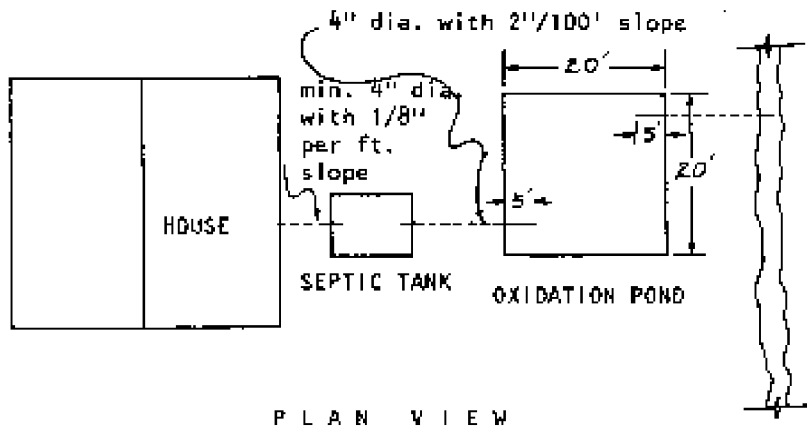


LONGITUDINAL
SECTION

CROSS
SECTION

- NOTES: 1. Drain tile laid with joints opened from $\frac{1}{2}$ to $\frac{1}{2}$ inch. Special collars may be used if desired.
2. Asphaltic treated paper for joint covering.

FIGURE 4
ABSORPTION TRENCH AND LATERAL DETAILS



- NOTES: 1. Pond must be enclosed by a suitable fence.
 2. Outlet invert to be at same or lower elevation than inlet invert.
 3. Pond water surface at least 2" below septic tank water surface.

FIGURE 5
 TYPICAL LAYOUT: SEPTIC TANK/OXIDATION POND SYSTEM

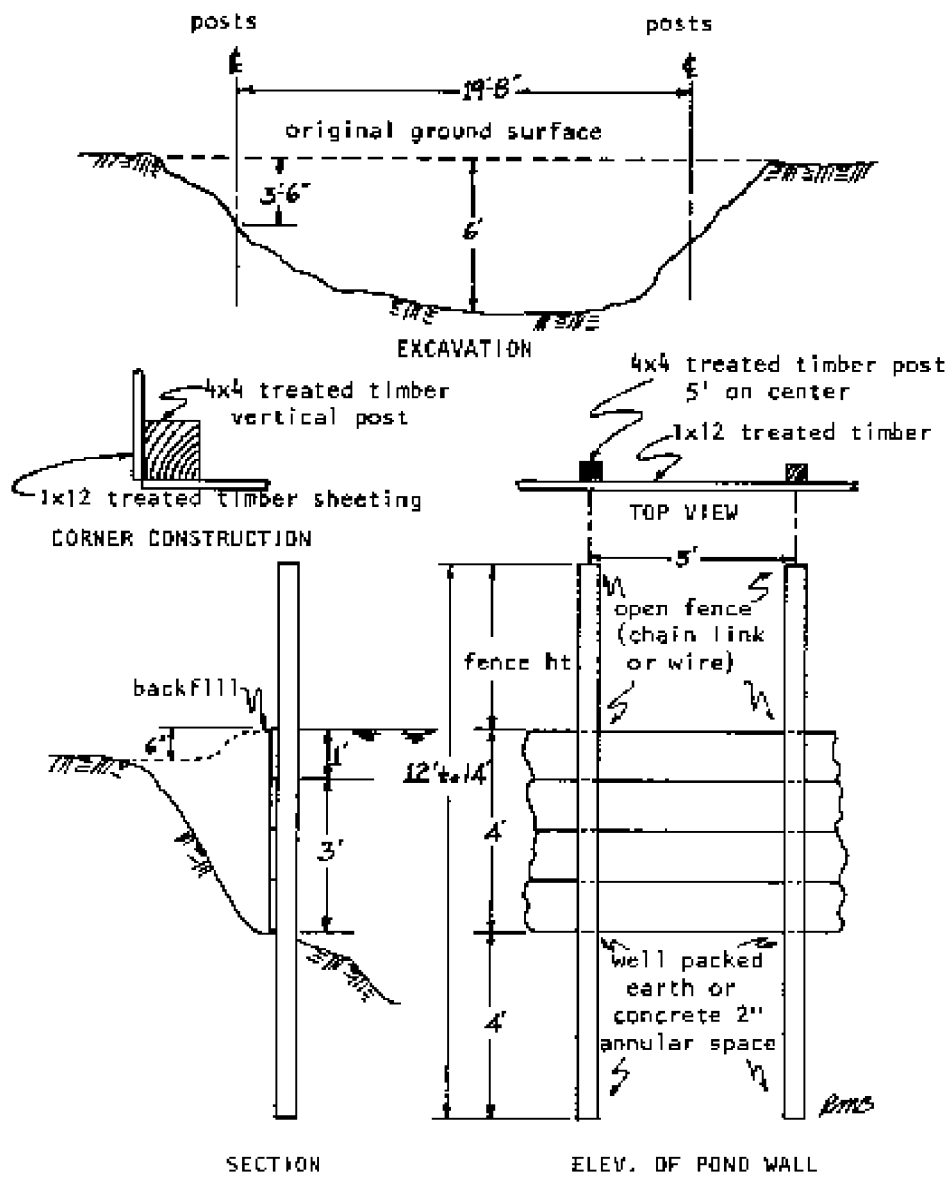


FIGURE 6
OXIDATION POND TIMBER RETAINING WALL DETAILS

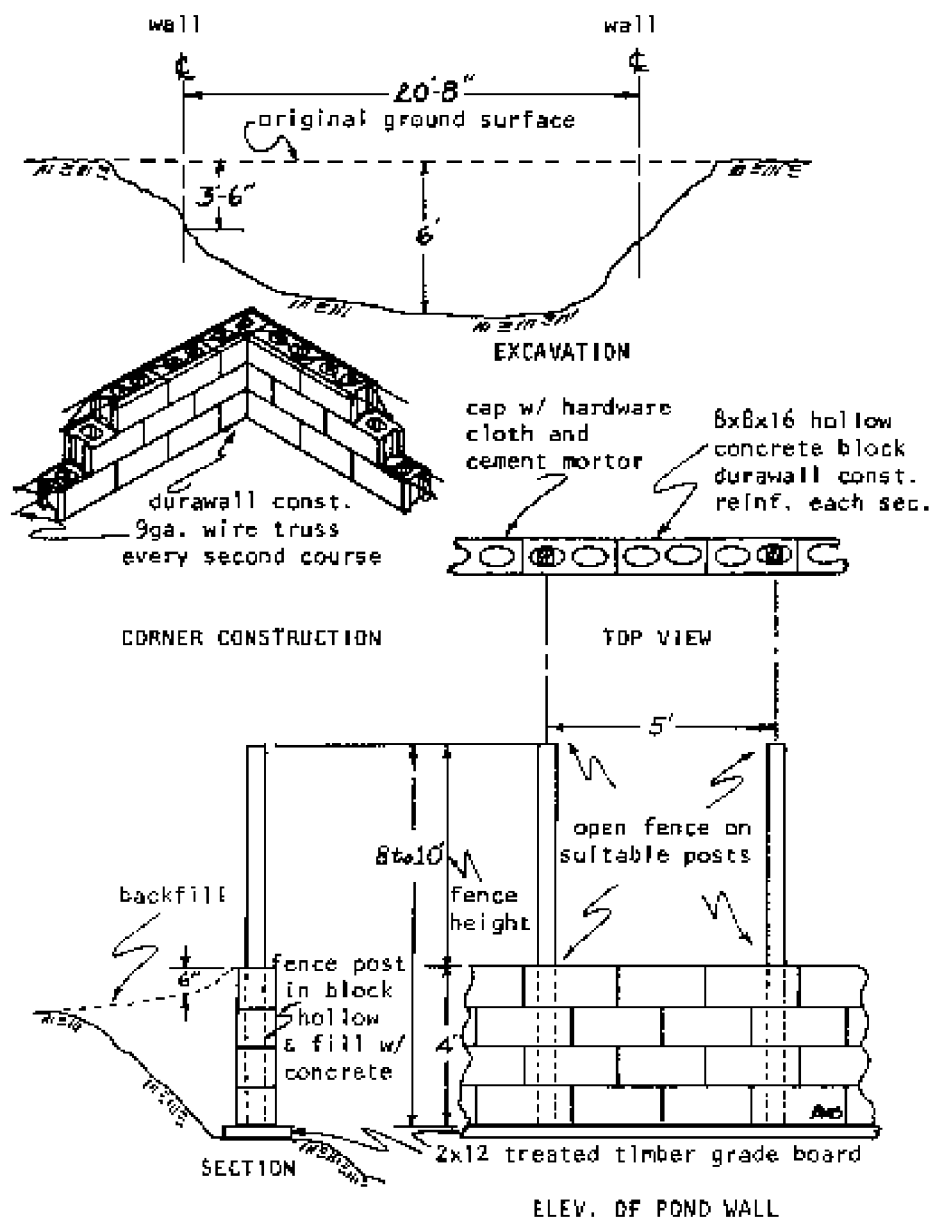
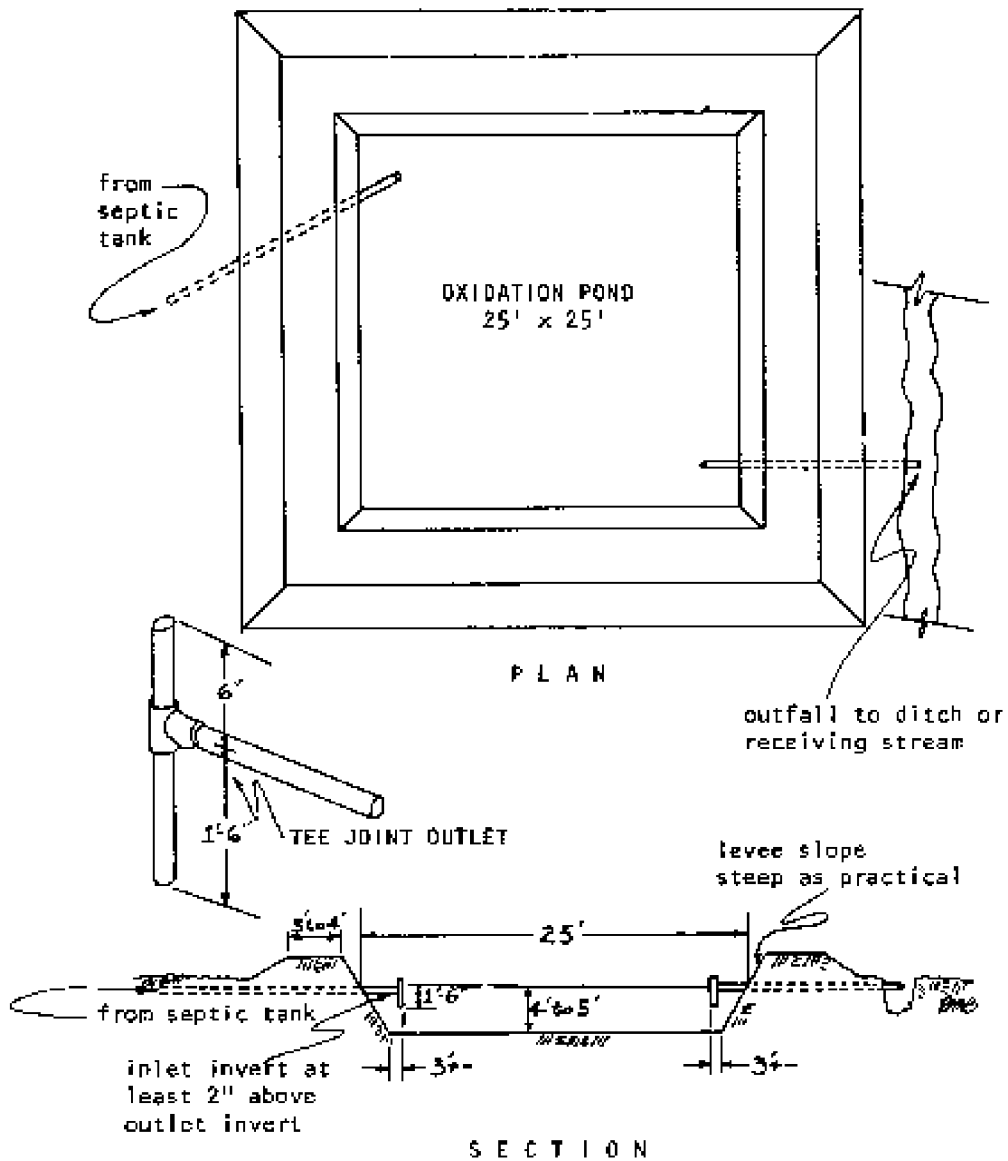
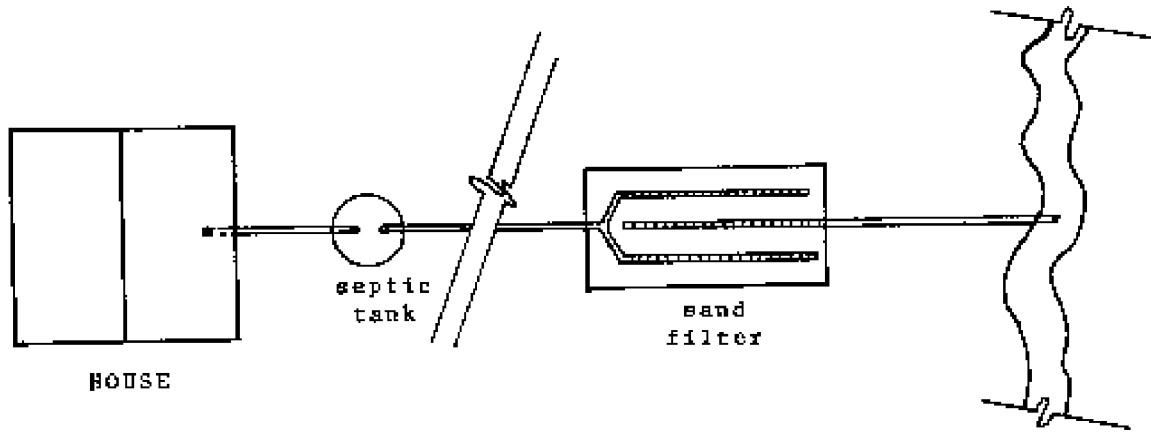


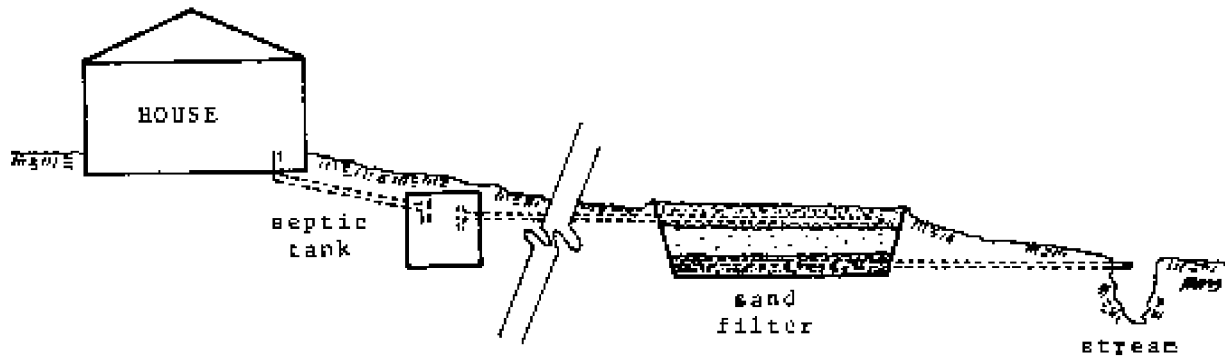
FIGURE 7
OXIDATION POND CONCRETE BLOCK RETAINING WALL DETAILS



**FIGURE 8
LEVEYED OXIDATION POND**



P L A N



P R O F I L E

NOTE: See Figure 10 for additional details

FIGURE 9
TYPICAL LAYOUT: SEPTIC TANK/SAND FILTER BED SYSTEM

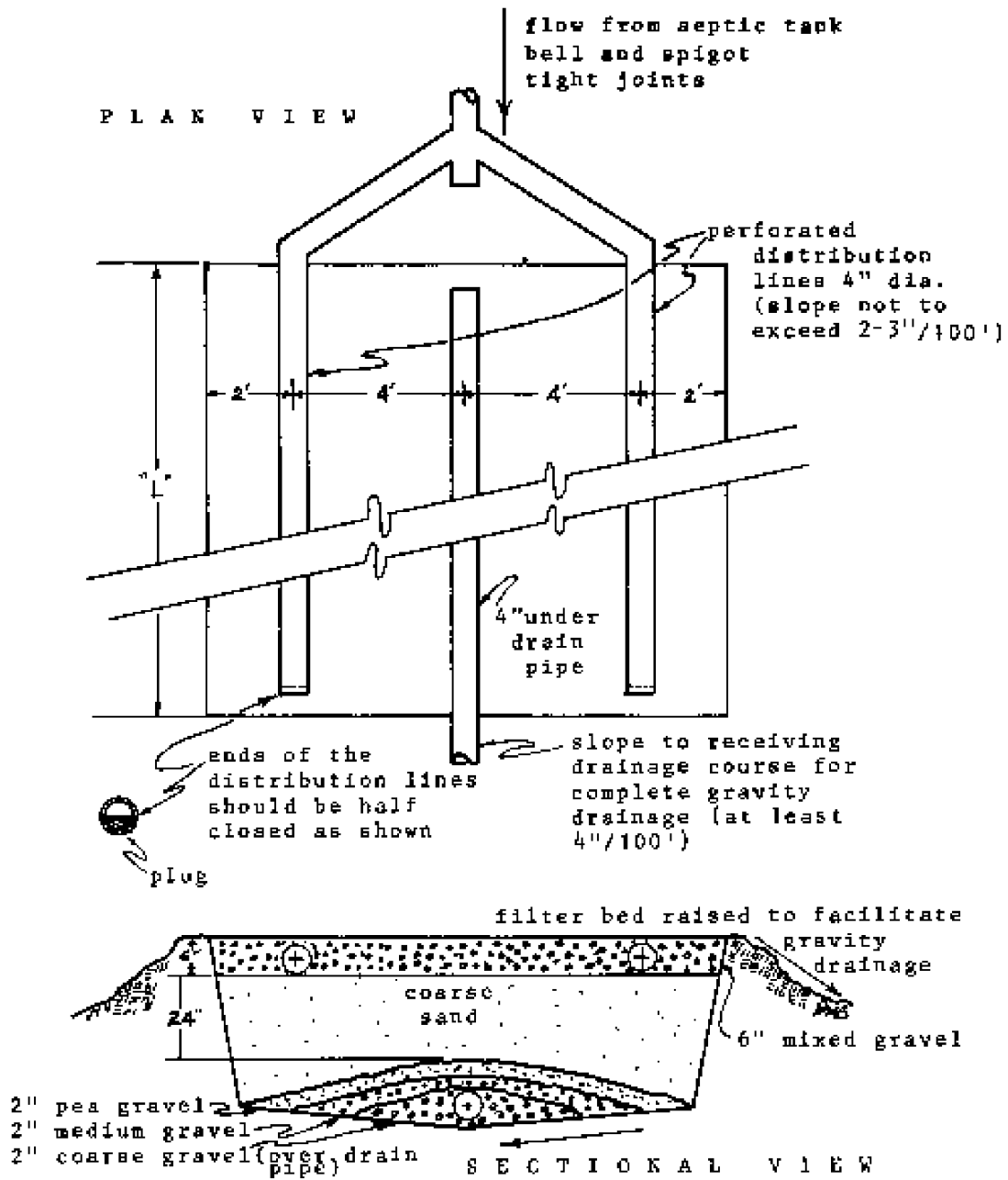


FIGURE 10
SAND FILTER BED DETAILS

APPENDIX B
Sewage Loading Criteria
[See Note (a)]

Place	Loading	Daily Average Flow Gallons Per Day	Daily Average BOD ₅ Pounds Per Day	Design Basis
Apartments		250	.425	one bedroom
		300	.52	two bedroom
		400	.68	three bedroom
Assembly	Note (b)	2	.0034	per seat
Bowling Alleys (no food service)	Note (b)	75	.13	per lane
Churches	Note (b)	5	.0088	per sanctuary seat
Churches (with permitted kitchen)	Note (c)	10	.017	per sanctuary seat
Country Clubs		50	.085	per member
Dance Halls	Note (b)	2	.0034	per person
Drive-In Theaters		5	.0085	per car space
Factories (no showers)		20	.051	per employee
Factories (with showers)		35	.06	per employee
Food Service Operations				
Ordinary Restaurant (not 24 hour)		35	.12	per seat
24-hour Restaurant		50	.17	per seat
Banquet Rooms		5	.017	per seat
Restaurant Along Freeway		100	.33	per seat
Curb Service (drive-in)		50	.17	per car space
Bar, Cocktail Lounges, Taverns (no food service or very little food service)		25	.084	per seat
(with regular food service)		35	.12	per seat
Video Poker Machine		100	.20	per machine
Fast Food Restaurants		40	.13	per seat
Hotel/Motel Food Service		45	.17	per room
Homes/Mobile Homes in Subdivisions		400	.68	per dwelling

Individual Homes/Mobile Homes (where individual sewage technology is utilized. For each additional bedroom add 100 gpd)		250	.425	one bedroom
		300	.51	two bedrooms
		400	.68	three bedrooms
Hospitals (no resident personnel)	Note (c)	200	.51	per bed
Institutions (residents)	Note (c)	100	.25	per person
Municipalities		100	.17	per person
Mobile Home Parks up to 5 trailer spaces		400	.68	per mobile home space
6 trailer spaces or more		300	.51	per mobile home space
Motels	Note (b)	100	.12	per unit
Nursing and Rest Homes	Note (c)	100	.25	per patient
		100	.17	per resident employee
Office Buildings		20	.051	per employee
Recreational Vehicle Dumping Stations				Consult OPH
Recreational Vehicle Parks and Camps		125	.21	per trailer or tent space
Retail Store		20	.034	per employee
Schools - Elementary	Note (c)	15	.038	per pupil
Schools - High and Junior High	Note (c)	20	.051	per pupil
Retail Fuel Stations (Located on major highways, interstate highways, etc., and whose primary function is to provide fuel and service to motor vehicles)	Note (d)	250	.43	per individual vehicle fueling point (up to the first four)
		125	.21	for each additional individual vehicle fueling point
Shopping Centers (no food service or laundries)		0.2	.00034	per square foot of floor space

Swimming Pool (including employees)	10	.017	per swimmer
Showers	20	.04	per shower
Vacation Cottages	50	.12	per person
Youth and Recreation Camps	Note (c) 50	.12	per person
Washing Machines	400	1.34	per machine

Note (a) If loading criteria other than presented here are used, they should be justified.
Note (b) Food Service waste not included.
Note (c) Food Service waste included but without garbage grinders
Note (d) Vehicle fueling points are an arrangement of gasoline or diesel fuel pumps to serve automobiles or other vehicles. For the purposes of these Guidelines, a vehicle fueling point is one that serves a vehicle at one time. Food service waste not included.

NOTE: Design calculations for sewage treatment facilities must be made based on both hydraulic loading(s) and organic loading(s). Final design of facility to be used upon the larger capacity (size) required by these calculations.

David W. Hood
Secretary

9801#061

RULE

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code—Temperature Control
(Chapters XXIII and XXIII A)

The Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4A(1) and R.S. 40:5, has updated Chapters XXIII and XXIII A of the Louisiana State Sanitary Code in reference to the cold holding temperature of potentially hazardous foods to be in accordance with Chapter XXII of this Code and the new Food and Drug Administration (FDA) Food Code guidelines as follows.

Sanitary Code

Chapter XXIII. Eating and Drinking Establishments

* * *

Food Protection

* * *

23:00 General: At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination, including dust,

insects, animals, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous foods shall be 41EF or below, or 140EF or above at all times, except as otherwise provided.

* * *

Food Storage

* * *

23:010-2 Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 41EF or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled, utilizing such methods as shallow pans, agitation, or quick chilling of water circulation external to the food container so that the cooling period shall not exceed four hours. Potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 41EF or below.

* * *

Food Preparation

* * *

23:020-1 In refrigerated units at a temperature not to exceed 41EF; or

* * *

Food Display and Service

* * *

23:021 Potentially Hazardous Foods: Potentially hazardous food shall be kept at an internal temperature of 41EF or below or at an internal temperature of 140EF or above during display and service, except that rare roast beef shall be held for service at a temperature of at least 130EF.

* * *

Chapter XXIII.A. Temporary Food Service

* * *

23A:005-2 Temperature Control: All potentially hazardous (and readily perishable) foods shall be maintained at a temperature of 41EF or below, or at a temperature of 140EF or above at all times, including during transportation if prepared off site and during storage. A thermometer should be provided in all perishable food storage facilities.

* * *

David W. Hood
Secretary

9901#058

RULE

**Department of Insurance
Office of the Commissioner**

Licensing and Insurance Compliance—Regulation 66
(LAC 37:XIII.Chapter 51)

In accordance with LSA-R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by L.R.S. Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B, notice is hereby given that the Commissioner of Insurance adopts the following regulation to require that persons designated as directors, presidents, vice-presidents, or any other person who performs as such in the articles of incorporation of domestic regulated entities will be required to file biographical information with the Commissioner of Insurance for review.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 51. Regulation 66—Requirements for
Officers, Directors, and Trustees of
Domestic Regulated Entities**

§5101. Purpose

A. The purpose of this regulation is to require that officers, directors and trustees of domestic regulated entities, as defined herein, file biographical information with the Commissioner of Insurance for review. The purpose of this review is to determine whether a domestic regulated entity continues to meet minimum licensing standards upon a change in officers, directors or trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999).

§5103. Definitions

A. For the purpose of this Regulation the following definitions shall be applicable.

Director—persons designated in the articles of incorporation, by-laws or other organizational documents as such, and persons designated, elected or appointed by any other name or title to act as directors, and their successors.

Domestic Regulated Entity—any Louisiana domiciled entity which is required to obtain a license or certificate of authority from or register with the Commissioner. This definition shall specifically include, but is not limited to, stock and mutual insurers, domestic service insurers, non-profit funeral service associations, reciprocal insurers, Lloyd’s plans, fraternal benefit societies, automobile service clubs, vehicle mechanical breakdown insurers, property residual value insurers, animal insurers, health maintenance organizations, non-profit beneficiary organizations and risk indemnification trusts, third party administrators, interlocal risk management agencies or any plan of self insurance providing health and accident or workers compensation coverage to employees of two or more employers.

This term shall not include insurance agents, agencies, managing general agents, viatical settlement brokers or reinsurance intermediary brokers.

Officer—a president, vice-president, treasurer, actuary, secretary, controller, partner and any other person who performs for the domestic regulated entity functions corresponding to those performed by the foregoing officers. *Officer* shall also include the administrator of a plan of self-insurance providing health and accident or worker compensation coverage to employees of two or more employers.

Trustee—the trustee of a trust, which provides health and accident or workers compensation coverage to employees of two or more employers.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999).

**§5105. Review of Officers, Directors and Trustees by
Commissioner Required**

A. No person shall serve as an officer, director or trustee of a domestic insurer who has not first submitted the information required by §5107 to the Commissioner or to whom, after review of the information required by §5107, the Commissioner has refused to issue a letter of no objection.

B. No domestic regulated entity may elect, appoint or otherwise accept an officer, director or trustee an individual who has failed to submit the information required by §5107 to the Commissioner or to whom, after review of the information required by §5107, the Commissioner has refused to issue a letter of no objection.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999).

§5107. Procedure for Requesting Letter of No Objection from Commissioner

A. Each person elected, appointed or who otherwise becomes as an officer, director or trustee of a domestic regulated entity shall, within thirty days of being elected, appointed or otherwise chosen, submit to the Commissioner a request for a letter of no objection regarding his service in that capacity. The request shall be made, in writing, on forms provided by the Commissioner.

B. Each request for a letter of no objection shall include:

1. such biographical information as the Commissioner shall reasonably require to determine compliance with this regulation and the applicable statutes;

2. a statement from the domestic regulated entity indicating the position for which the individual has been elected, appointed or otherwise chosen;

3. a sworn statement from the individual confirming that he has no conflict of interest which would interfere with his service in the position;

4. a copy of the acceptance of trust, oath of office or other such document signed by the individual. The form of this document will be provided by the Commissioner and shall include a statement that the individual agrees to abide by and direct the activities of the domestic insurer in compliance with all applicable provisions of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:79 (January 1999).

§5109. Conditions for Refusal of Letter of No Objection

A. The Commissioner may refuse to issue a letter of no objection if he finds that:

1. the competence, experience and integrity of the individual is such that it would not be in the best interest of policyholders, members or clients of the domestic regulated entity or of the public to allow the person to serve in the proposed position;

2. the individual has been convicted of or has pled nolo contendere to or participated in a pretrial diversion program pursuant to any charge of any felony or misdemeanor involving moral turpitude or public corruption;

3. the individual knowingly makes a materially false statement or omission of material information in the request for a letter of no objection;

4. for any other reason now or hereinafter as the law may provide.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B,

1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:79 (January 1999).

§5111. Waiver of Submission of Biographical Information

A. The Commissioner may waive the requirement that an individual submit biographical information under the following conditions:

1. the individual has served as an officer, director or trustee of a domestic regulated entity for a period of five consecutive years;

2. the individual has received a letter of no objection from the Commissioner within one year of being elected, appointed or otherwise chosen as an officer, director or trustee and no material change has occurred in the biographical information submitted in support of that request;

3. individuals who qualify for a waiver of the submission of the biographical information must submit the document required by §5107.B.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:79 (January 1999).

§5113. Scope and Limitations

A. On its effective date, January 20, 1999, this regulation shall apply to all individuals serving as an officer, director or trustee of a domestic regulated entity and to all individuals nominated or otherwise suggested for such positions.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017B, 1348(B) 1358B; Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358B.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:79 (January 1999).

James H. "Jim" Brown
Commissioner of Insurance

9901#069

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Delegation; Definitions; Licensing;
Transfers; Disciplinary Action
(LAC 42:III.104, IX.2105, 2701, 2703, 2707, 2723,
2729, 2901-2917, 2921, 3301-3309, and 3319)

(Editor's Note: Chapters 21-43 were originally promulgated in *The Advocate* on March 14, 1995. Copies of the full text of these rules can be obtained from the Attorney General's Gaming Division, 339 Florida Boulevard, Suite 500, Baton Rouge, LA 70801.)

The Gaming Control Board hereby adopts amendments to LAC 42:III.104, IX.2105, 2701, 2703, 2707, 2723, 2729, 2901, 2903, 2905, 2907, 2909, 2911, 2913, 2915, 2917, 2921, 3301, 3303, 3305, 3307, 3309 and 3319 in accordance with the provisions of R.S. 27:24, and R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 1. General Provisions

§104. Delegation to Chairman

A.1.-2. ...

3. enter into the casino operating contract on behalf of the Louisiana Gaming Control Board, provided however that the casino operating contract shall be executed on behalf of the Louisiana Gaming Control Board by the chairman or a designated representative when the casino operating contract is approved by the Louisiana Gaming Control Board and the chairman or a designated representative is specifically ordered by board resolution to execute the casino operating contract on behalf of the Louisiana Gaming Control Board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Gaming Control Board, LR 22:1140 (November 1996), amended LR 25:80 (January 1999).

Part IX. Land Based Casino

Chapter 21. General Provisions

§2105. Definitions, Words and Terms, Captions, Gender References

* * *

Approvals—those actions of the Casino Operator, Casino Manager, licensees or other persons found suitable, or transactions directly or indirectly involving such persons, which require Approval by the Corporation through the President or the Board, but which do not in themselves constitute licensing or a Finding of Suitability of any person involved, but the licensing or Finding of Suitability of the persons involved may, unless the Casino Act, these Regulations or the Corporation dictate otherwise, constitute Approval by the Corporation of the transaction in question.

Background Investigation—all efforts, whether prior to or subsequent to the filing of an application, designed to discover information about an applicant, Casino Operator, Casino Manager, licensee, registrant or other person found suitable and includes without time limitation, any additional or deferred efforts to fully develop the understanding of information which was provided or should have been provided or obtained during the application process. Examples of background investigation include, but are not limited to measures taken in connection with exploring information on applicants; procedures undertaken with respect to investigatory hearings, except for matters specifically disclosed in any hearing open to the public and orders, responses, and other documents relating thereto.

* * *

Casino Operator Affiliate—Repealed.

* * *

Finder's Fees—any compensation in money in excess of the sum of \$10,000, or real or personal property with a real value in excess of the sum of \$10,000 which is paid or transferred to any person in consideration for the arranging or negotiation of an extension of credit to the Casino Operator, or an applicant for licensing, registration. Approval or Finding of Suitability if the proceeds of such extension of credit is intended to be used for any of the following purposes: the acquisition of an interest in the Official Gaming Establishment or Casino Operator; to finance the gaming operations of the Casino Operator. The term shall not include compensation to the person who extends the credit; normal and customary payments to employees of the person to whom the credit is extended if the arranging or negotiation of credit is part of their normal duties: normal and customary payments for bona fide professional services rendered by lawyers, accountants, engineers and appraisers, underwriters discounts paid to a member of the National Association of Securities Dealers, Inc.; fees paid to banking institutions in connection with procuring credit.

Finding of Suitability—any action required or allowed by the President, Board, Casino Act or these Regulations that require certain persons, directly or indirectly involved with the Casino Operator, Casino Manager, licensees or registrants to be found suitable to hold a gaming license so long as such involvement continues. A finding of suitability relates only to the specified involvement for which it is made. If the nature of the involvement changes from that which the applicant is found suitable, he may be required to submit himself to a determination by the Corporation of his suitability in the new capacity.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:80 (January 1999).

Chapter 27. Required Licensing

Subpart A. Suitability of Casino Operator

§2701. Suitability of Casino Operator

A. The following persons shall demonstrate their suitability and qualification to the Board by clear and convincing evidence (as those terms are defined in the Casino Act and LAC 42:IX.2329 and 2331):

1. a Casino Operator;
2. all other persons, who either alone or in combination with others, have the ability to significantly and directly affect or influence the affairs of a Casino Operator or a Casino Manager;
3. a person with respect to whom a finding of suitability is necessary in order to insure that the policies of the Casino Act and the integrity of gaming operations are protected; and

4. any other person that the Board in its discretion, directs to demonstrate its suitability and qualifications.

B. For the purpose of §2701 any persons holding, owning or Controlling a direct or beneficial interest (this shall include any rights created in any counter-letter, option, convertible security or similar instrument) in the following persons shall be presumed to have the ability to significantly and directly influence or affect affairs of a Casino Operator or Casino Manager unless the presumption is rebutted by clear and convincing evidence:

1. Any persons holding, owning or controlling a 5% or more equity interest or outstanding voting securities (including holdings in trust and whether as settlor, trustee or beneficiary) in a non-publicly traded Intermediary or Holding Company of the Casino Operator or the Casino Manager.

2. Any persons holding, owning or controlling a 10% or more equity interest or outstanding voting securities or rights in a publicly traded or any publicly traded Intermediary or Holding Company of a Casino Operator or a Casino Manager.

C. Notwithstanding the terms of Subsection B above, the following persons shall not be automatically deemed to have the ability to significantly and directly influence the affairs of the persons or entities identified above requiring a Finding of Suitability:

1. A holder or owner of a Security or other interest that is convertible or exercisable into an equity or ownership interest in a publicly traded Public Traded Intermediary or Holding Company thereof prior to the time that the Security or other interest is converted or exercised. A holder or owner of a convertible interest shall seek the approval of the Corporation before exercising the conversion rights unless, after conversion such person will hold, own or control less than 10% of the total outstanding equity or ownership interests in the Intermediary or Holding Company thereof.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:81 (January 1999).

§2703. Safe Harbor

If at any time the Corporation finds that a holder of a debt or equity interest in the Casino Operator or any of their respective Affiliates, that is required to be and remain suitable has failed to demonstrate suitability, the Corporation may, consistent with the Casino Act and the casino operating contract, take any action that the Corporation deems necessary to protect the public interest. Provided however if, a holder of a debt or equity interest in the Casino Operator or any of their respective Affiliates associated with the Casino Operator or Affiliates has failed to demonstrate suitability, the Corporation shall take no action to declare the Casino Operator or Affiliates, as the case may be, not Suitable based upon such finding, if the affected Casino Operator, or Affiliates takes immediate good-faith action (including the prosecution of all legal remedies) and complies with any order of the action (including the

prosecution of all legal remedies) and complies with any order of the Corporation to cause such person failing to demonstrate suitability to dispose of such person's interest in the affected Casino Operator or Affiliates, and that pending such disposition such affected Casino Operator or Affiliates, from the date of notice from the Corporation of a finding of failure to demonstrate suitability, ensures that the person failing to demonstrate suitability:

1. does not receive dividends or interest on the securities of the Casino Operator or Affiliates;

2. does not exercise, directly or indirectly, including through a trustee or nominee, any rights conferred by the securities of the Casino Operator or Affiliates;

3. does not receive any remuneration from the Casino Operator or Affiliates;

4. does not receive any economic benefit from Casino Operator or Affiliates;

5. subject to the disposition requirements of this Section, does not continue in an ownership or economic interest in the Casino Operator or Affiliates or remain as a manager, officer, director, partner, employee, consultant or agent of the Casino Operator or Affiliates.

a. Nothing contained in this Section shall prevent the Corporation from taking any action against the Casino Operator if the Casino Manager fails to be or remain suitable. Moreover, nothing contained in this Section shall prevent the Corporation from taking regulatory action against the Casino Manager, Casino Operator or Affiliates as the case may be, if the Casino Operator, Casino Manager or Affiliates as the case may be:

i. had actual or constructive knowledge of the facts that are the basis of the Corporation regulatory action, and failed to take appropriate action; or

ii. is so tainted by such person failing to demonstrate suitability so as to affect the suitability of the Casino Operator, the Casino Manager or Affiliates under the standards of the Casino Act or these Regulations; or

iii. cannot meet the suitability standards contained in the Casino Act and these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:81 (January 1999).

§2707. Loan Transactions

A. All loan transactions in excess of \$10,000,000 (ten-million dollars) in which the Casino Operator is a party, shall require the prior Approval of the Corporation, except those transactions permitted by Section 13.6 of the casino operating contract, provided the source of any funds is a suitable lender.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:81 (January 1999).

Subpart D. Licensing of Vendors and Other Service or Property Providers

§2723. Required Licensure

A. The following shall, prior to conducting any business with the Casino Operator or Casino Manager, apply for and receive an appropriate license by demonstrating his suitability and qualifications in accordance with LAC 42:IX.2329 and 2331.

1. All manufacturers, distributors and other providers or suppliers of Gaming Devices or Gaming Supplies.

2. All casino security services and repairers, and limousine services.

B. Any person who furnishes services or property to the Casino Operator or Casino Manager under any arrangement pursuant to which the person receives payments based on earnings, profits or receipts from gaming operations, shall apply for and receive a license, by demonstrating his suitability and qualifications, in accordance with LAC 42:IX.2329 and 2331, prior to engaging in any such transaction or activity. The Casino Manager shall be deemed to have complied with this Section if it has the requisite Approvals pursuant to Section 8.1 of the casino operating contract and otherwise complies with these Regulations.

C. Any person who is entitled to receive Finders Fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:82 (January 1999).

§2729. Reporting

A. The Casino Operator and Casino Manager shall:

1. provide the Corporation with a monthly listing of all non-gaming vendors on a form prescribed or Approved by the Corporation; and

2. provide a Business Information Form (BIF) to the Corporation for all category 3 non-gaming vendors immediately after engaging the vendor.

B. The Casino Operator shall file a monthly report in writing within 10 days following the end of each month regarding certain recommendations or solicitations to purchase goods or services. The Casino Operator must include any recommendation or solicitation in the report when:

1. the recommendation or solicitation is to purchase goods or services, either directly or indirectly, from a particular vendor which:

a. exceeds \$5,000.00; or

b. exceeds \$10,000.00, when cumulated with other recommendation or solicitations made during a calendar year, to purchase from the same vendor; and

2. the recommendation or solicitation is made by or is received from, either directly or indirectly, a person or entity not employed by the vendor for the principal purpose of soliciting or recommending such purchase from the vendor in the ordinary course of business.

C. An indirect solicitation or recommendation occurs when the casino operator has reasonable grounds to believe that the goods or services to be provided by a particular vendor will actually be provided to that vendor by another vendor, or when a particular person solicits or recommends on behalf of a disclosed or undisclosed third person. The written report shall provide:

1. the name of the person or entity making such recommendation or solicitation, and if known, the address and telephone number;

2. the vendor on whose behalf the recommendation or solicitation is made, and if known, the address and telephone number;

3. the name of the person soliciting or recommending on behalf of a third person, the name of the third person and if known, the address and telephone number of both.

D. The Casino Operator shall also report any recommendation or solicitation received by the Casino Operator under circumstances in which a reasonable person would perceive there to be pressure or intimidation of any kind, or other conduct not customary in an ordinary business transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:82 (January 1999).

Chapter 29. Transfers of Interest, Public Offerings and Other Financial Transactions Requiring Corporation Approval

§2901. Transfer of Interest, General

No person shall sell, assign, lease, grant, hypothecate, transfer, convey, purchase or acquire any interest of any sort whatsoever, or foreclose on a security interest in the Casino Operator or Casino Manager, or any portion thereof, or enter into or create a voting trust agreement or any agreement of any sort in connection with any licensed gaming operation or any portion thereof, except in accordance with the Casino Act and these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:82 (January 1999).

§2903. Disclosure of Representative Capacity

No person shall transfer, assign, pledge, or otherwise dispose of, or convey in any manner whatsoever, any ownership interest in the Casino Operator or Casino Manager to any person acting as an agent, trustee or in any other representative capacity for or on behalf of another person without having first fully disclosed all facts pertaining to such transfer and representation to the Corporation. No person acting in such representative capacity shall hold or acquire any such interest or so invest or participate without having first fully disclosed all facts pertaining to such representation to the

Corporation and having obtained written permission from the President.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:82 (January 1999).

§2905. Transfer of Interest Prior to Approval

The sale, assignment, transfer, pledge, alienation, disposition, public offering, acquisition or other transfer of any ownership interest of the Casino Operator, Casino Manager must receive prior Approval from the Corporation. Any sale, assignment, transfer, pledge, alienation, disposition, public offering, acquisition or other transfer of interest of the Casino Operator or Casino Manager that occurs without the prior Approval of the Corporation shall be void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:83 (January 1999).

§2907. Transfer of Interest, Application

A. Unless otherwise provided in LAC 42:IX.2909, any person or entity filing an application for transfer of any ownership interest in the Casino Operator or Casino Manager shall complete an application on a form prescribed by the Corporation which shall form the basis for the Corporation's investigation to determine the suitability of the transferee. All costs associated with the Corporation's investigation of the application for a transfer of interest shall be born by the individual or entity seeking the ownership interest. An application fee of \$300 shall be paid at the time of filing the application.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:83 (January 1999).

§2909. Transfer Among Licensees

If a person who is the owner of any interest of the Casino Operator or Casino Manager proposes to transfer ownership of said interest to another person who is also an owner of the Casino Operator or Casino Manager, the following shall apply:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:83 (January 1999).

§2911. Transfer of Interest to Non-Licensee

A. No person who owns any direct ownership interest in the Casino Operator or Casino Manager shall in any manner

whatsoever, transfer any part of the interest therein to any person, who is not then a licensee or otherwise has been found suitable by interest therein to any person, who is not then a licensee or otherwise has been found suitable by the Corporation. No such transfer shall be effectuated for any purpose until the proposed transferee has made application for and has obtained all licenses, or Findings of Suitability required by the Casino Act and these Regulations and until the transfer and application has been Approved by the Corporation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:83 (January 1999).

§2913. Stock Restrictions

Unless otherwise Approved by the Corporation in advance, all ownership securities issued by the Casino Operator or Casino Manger shall bear on both sides of the certificate a statement of the restrictions containing the following inscription: "The purported sale, assignment, transfer, pledge or other disposition of this security must receive the prior Approval of the Louisiana Economic Development and Gaming Corporation. The purported sale, assignment, transfer, pledge or other disposition, of any security or shares issued by the entity issuing this security is void unless Approved in advance by the Louisiana Economic Development and Gaming Corporation. If at any time an individual owner of any such security is determined to be disqualified under the Casino Act to continue as a licensee or suitable person, the issuing entity shall ensure that such person or persons may not: receive any dividend or interest upon any such security, exercise, directly or indirectly through any trustee or nominee any voting right conferred by such security receive remuneration in any form from the Casino Operator or Casino Manager for services rendered or otherwise, receive any economic benefit from the Casino Operator or Casino Manager or function as a manager, officer, director, or partner thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:83 (January 1999).

§2915. Escrow Required

A. No money or other thing of value constituting any part of the consideration for the transfer of interest or acquisition of interest in the Casino Operator or Casino Manager shall be paid over, received or used until complete compliance has been had with all prerequisites set forth in the Casino Act and these Regulations for the consummation of the transaction.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic

Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:83 (January 1999).

§2917. Public Offerings

The Casino Operator or Casino Manager and any non-publicly traded Holding Company shall apply for prior Approval of any proposed public offering of any ownership interest therein, and shall comply with all conditions imposed by the Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:84 (January 1999).

§2921. Enforcement of a Security Interest

* * *

B. Notwithstanding any other provision of these Regulations, Approval is not required to enforce a security interest in a security issued by a Casino Operator, Casino Manager or Intermediary or Holding company thereof, if the gaming operation has ceased and the casino operating contract has been surrendered to the Board prior to the enforcement of such security interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:84 (January 1999).

Chapter 33. Disciplinary Action

§3301. Violation of Law or Regulations

A. Violation of any provisions of the Casino Act or of these Regulations by a Casino Operator, Casino Manager, licensee, registrant, person found suitable or any agent or employee of such person shall be deemed contrary to the public health, safety, morals, good order and general welfare of the inhabitants of the State of Louisiana and grounds for suspension or revocation of a license or Finding of Suitability or imposition of a civil penalty in accordance with LAC 42:IX.3319 of these Regulations. Acceptance of a license, registration, Approval or Finding of Suitability or renewal thereof by the person constitutes an agreement on the part of the person to be bound by all of these Regulations of the Corporation as the same are, or may hereafter be amended.

B. It is the responsibility of the person to keep himself informed of the content of all such Regulations and ignorance thereof will not excuse violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:84 (January 1999).

§3303. Investigations and Hearings

The corporation shall investigate alleged violations of the Casino Act and these Regulations by any Casino Operator, Casino Manager, licensee, registrant, person found suitable, or

member of the public. The President shall conduct hearings in accordance with LAC 42:IX.2501 et seq. to determine whether there has been a violation of any provisions of the Casino Act or these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:84 (January 1999).

§3305. Methods of Operation

A. It is the policy of the Corporation to require that the Official Gaming Establishment be operated in a manner suitable to protect the public health, safety, morals, good order and general welfare of the inhabitants of the State of Louisiana.

B. Responsibility for the employment and maintenance of suitable methods of operation rests with the Casino Operator and Casino Manager and willful or persistent use of or toleration of methods of operation deemed unsuitable will constitute grounds for disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:84 (January 1999).

§3307. Grounds for Disciplinary Action Against the Casino Operator or Casino Manager

The Corporation deemed any activity on the part of the Casino Operator, Casino Manager and their agents or employees, what is inimicable to the public health, safety, morals, good order and general welfare of the people of the State of Louisiana, or that would reflect or tend to reflect discredit upon the State of Louisiana or the gaming industry, to be an unsuitable method of operation and shall constitute grounds for disciplinary action by the Corporation in accordance with the Casino Act and these Regulations. Without limiting the generality of the foregoing, the following acts or omissions may be determined to be unsuitable methods of operations:

* * *

19. Except transfers of interest made pursuant to LAC:IX.2901 et. seq., the sale or assignment of any gaming credit instrument by a Casino Operator, Casino Manager, licensee or person found suitable unless the sale is to a publicly traded or other bonafide financial institution pursuant to a written contract, and the transaction and the terms of the transaction, including, but not limited to, the discount rate, are reported to the Corporation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:84 (January 1999).

§3309. Disciplinary Action Against Employees and Agents

The Corporation may take disciplinary action against any employee or agent of the Casino Operator or Casino Manager if the employee or agent has:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:85 (January 1999).

§3319. President’s Issuance of Orders

* * *

B. The President may require, prior to any disciplinary proceedings, that a corporate licensee, Casino Operator or Casino Manager place its securities in escrow under specified terms and conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation (*The Advocate*, March 14, 1995), amended by the Louisiana Gaming Control Board, LR 25:85 (January 1999).

Hillary J. Crain
Chairman

9901#004

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Video Draw Poker Devices
(LAC 42:XI.2407 and 2413)

The Gaming Control Board hereby amends LAC 42:XI.2407 and 2413 in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2407. Operation of Video Draw Poker Devices

A.1. - 12. ...

13. All licensees or designated representatives of the licensees shall be present during all hours of operation of the licensed establishment in order to prevent the play of video draw poker devices by persons under the age of 21 and to prevent access to the gaming area by persons under the age of 18.

14. All licensees shall post signs on the premises of a licensed establishment which admits mixed patronage that restricts the play of video draw poker devices by persons under the age of 21 and restricts the access to areas where gaming is

conducted by persons under the age of 18.

15. All licensees shall label entrances to device areas with lettering, at least 3 inches in height, stating:

a. "NO PERSONS UNDER THE AGE OF 21 ALLOWED TO PLAY GAMING DEVICES";

b. "NO PERSONS UNDER THE AGE OF 18 ALLOWED INSIDE"; and

c. "GAMING DEVICES INSIDE."

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq., and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety, Gaming Control Board, LR 25:85 (January 1999).

§2413. Devices

A. Device Specifications

1.a. - e.i. ...

ii. The phrase "NO PERSON UNDER THE AGE OF 21 ALLOWED TO PLAY" shall be conspicuously displayed on the face of all devices.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq., and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety, Gaming Control Board, LR 25:85 (January 1999).

Hillary J. Crain
Chairman

9901#014

RULE

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

Amusement Ride Safety
(LAC 55:V.Chapter 25)

In accordance with the provisions of R.S. 49:950 et seq. and R.S. 40:1484.3, relative to the authority of the State Fire Marshal to promulgate and enforce rules, relative to the regulation of Amusement Attractions and Rides, the Office of the State Fire Marshal hereby adopts the following rules.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 25. Amusement Attractions and Rides

§2501. Definition of Terms

Amusement Inspection—the official inspection by the Mechanical Safety Manager, or his designee, of a ride or device.

A.N.S.I.—the American National Standards Institute.

Approved—acceptable to the assistant secretary. Any product certified or classified, or labeled, or listed by a nationally recognized testing agency may be deemed to be acceptable, unless specifically banned by order of the assistant secretary.

A.S.T.M.—the American Society of Testing Materials.

Barrier—a physical obstruction designed and constructed to safely bring a kart to a full stop or guide the kart safely back on the track.

Child—a person 12 years of age and under.

Cone—a tapered cylinder used for marking the apex of the curves.

Containing Device—a strap, belt, bar, gate or other safety device designed to prevent accidental or inadvertent dislodgement of a passenger from a ride which does not actually provide physical support.

Course/Route/Defined Area—the designed path the kart will follow.

Existing Kart Tracks Kart—tracks in business prior to January 1, 1997.

Governor—a speed limiting device.

Guardian—a person 18 years of age and over.

Guardian Restriction—a condition placed on an amusement ride or attraction where a passenger must be accompanied on the ride by a guardian.

Guards—a device to protect the public from coming in contact with any rotating chains, belts, hot engines or muffler parts.

Helmet—a covering approved by the Department of Transportation (D.O.T.) to protect the head from impact and injury.

Kart—any mechanically powered vehicle, other than those regulated by the Consumer Products Safety Commission.

Kart Ride—shall include but not be limited to karts, kart track, refueling areas, spectator areas and other areas used in any manner of the kart operation.

MPH—the number of miles the kart may travel in one (1) hour.

New Construction—any new kart tracks which are constructed after January 1, 1997.

Pinching Hazard—any configuration of components that would pinch or entrap the fingers or toes of a child or adult.

Pit Area—the designated area where patrons are loaded and unloaded from karts.

Primary Structural Members—any part of the flume or pool structure that carries or retains any static loads or stress caused by water pressure or structure weight.

Puncture Hazard—any surface or protrusion that would puncture a child's or an adult's skin under casual contact.

Refueling Area—a location remote from any area accessible to the public where the karts are refueled.

Restraining Device—a safety belt, harness, or other device which offers actual physical support, or restraint to the patrons of a kart.

Ride Action—a term which shall be used to describe the movements and/or motions of an amusement ride or attraction which are generated for amusement purposes; and/or the bodily actions or reactions experienced by the passengers which are a result of the movement or motions. Bodily actions or reactions which are a result of the commission of an act or acts of malicious negligence and/or horseplay shall not be construed as resulting from the ride action.

Ride Operator—any person or persons actually engaged in or directly controlling an amusement ride or attraction.

Rope, Wire Rope and Cable—are interchangeable, but not interchangeable with the terms for fiber rope and manila rope.

Roll Bar—a metal frame designed to extend above the patron's head, support the weight of the kart and patron, and protect the patron should the kart overturn.

Safety Retainer—a secondary safety wire, rope, bar attachment or other device designed to prevent parts of an amusement ride or amusement attraction from becoming disengaged from the mechanism or from tipping or tilting in a manner to cause hazard to persons riding on, or in the vicinity of, an amusement ride or amusement attraction.

Safety Walls—that part of the water flume designed to keep a slider within the geometric confines of the flume.

Serious Injury—death or injury to a member of the public which requires immediate in-patient overnight hospitalization incurred during the operation of any amusement ride.

Splash Pool—a landing pool at the end of the flume from which bathers exit to the deck.

Splash Pool Decks—those areas surrounding a pool or flume which are specifically constructed or installed for use by sliders.

Stress—force per unit of area.

Track—the physical surface on which the kart operates.

Tread Contact Surface—foot contact surfaces of ladder, step, stair, or ramp.

Water Amusement Ride—an amusement ride or attraction which utilizes water as the primary entertainment medium, and moreover, the customer is either fully or partially immersed in water.

Water Flume—a sloped trough-like or tubular structure of varying slope and direction usually made of fiberglass or coated concrete which utilizes water as a lubricant and/or the method of regulating rider speed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:85 (January 1999).

§2503. Administration

A. The Office of the State Fire Marshal which administers the provisions of R.S. 40:1484.1 et seq. relating to the Amusement Ride Safety Law, is located at 5150 Florida Blvd., Baton Rouge, LA 70806.

B. The following Nationally recognized standards are adopted and used in the formulation and enforcing of these rules and regulations; should there arise a conflict between

these standards and R.S. 40:1484.1 et seq. or the rules and regulations, the provisions of R.S. 40:1484.1 et seq. and/or the rules shall apply:

1. ASTM F698-94 Standard Specification for Physical Information to be Provided for Amusement Rides and Devices (approved July 15, 1994; published September 1994);

2. ASTM F747-95 Standard Terminology Relating to Amusement Rides and Devices (approved April 15, 1995; published June 1995);

3. ASTM F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (approved December 15, 1993; published February 1994);

4. ASTM F846-92 Standard Guide for Testing Performance of Amusement Rides and Devices (approved May 15, 1992; published July 1992);

5. ASTM F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (approved January 15, 1993; published March 1993);

6. ASTM F893-87 Standard Guide for Inspection of Amusement Rides and Devices (approved May 29, 1987, reapproved 1995; published July 1987);

7. ASTM F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (approved April 15, 1994; published June 1994);

8. ASTM F1193-95 Standard Practice for An Amusement Ride and Device Manufacturer Quality Assurance Program (approved January 15, 1995; published March 1995);

9. ASTM F1305-94 Standard Guide for the Classification of Amusement Ride and Device Related Injuries and Illnesses (approved April 15, 1994; published June 1994);

10. NFPA 101, Edition 1997, Life Safety Code; and

11. NFPA 70, Edition 1996, National Electrical Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:86 (January 1999).

§2505. Inspections

A. Where only individual units of a ride, such as cars, seats, or other carriers are defective and not in compliance with R.S. 40:1484.1 et seq. and/or these rules, such units shall be taken out of service and clearly marked with a red tag reading *Out of Service*; provided, however, such defects do not jeopardize the safety of the entire ride.

B. The assistant secretary or his designee, upon presenting credentials to the ride owner/operator, is authorized without prior notice to inspect and investigate at reasonable times, and within reasonable limits and manner, any area where amusement rides or amusement attractions are assembled or are in use.

1. Inspections shall include, but are not limited to, a review of necessary documents, observation of and/or examination of the ride assembly or set up.

2. Inspection of the ride shall include, as a minimum, foundation, blocking, fuel containers, mechanical and electrical condition and safe operation of the ride.

3. Amusement rides/attractions shall be operated in accordance with the manufacturer recommended restrictions and limitations, such as, but not limited to height, weight, age or passenger placement. In the event the manufacturer has not provided such recommended restrictions, such restrictions and limitations must be established by the operator and shall be submitted to the assistant secretary for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:87 (January 1999).

§2507. Prohibited Use

A. The assistant secretary shall order in writing, a cessation of operation of an amusement ride or attraction, if it has been determined after inspection to be hazardous or unsafe. Operation shall not be resumed until such conditions are corrected to the satisfaction of the assistant secretary.

B. No person shall use or permit to be used, an amusement ride or attraction which is not properly assembled or which is defective or unsafe in any of its parts, components, controls, or safety equipment.

C. During a lightning storm, a period of tornado alert or warning, or fire, or when violence, riot, or other civil disturbance occurs or threatens an amusement ride or attraction, or in an area adjacent thereto, passengers shall be unloaded or evacuated from the ride and the ride shall be shut down and secured immediately. Operation shall not resume until the situation has returned to a normal, safe operating condition.

D. An amusement ride or attraction which is exposed to wind or storm with lightning or wind gust above that recommended by the manufacturer, shall not be operated except to release or discharge occupants.

E. If the inspector finds that an amusement ride or attraction presents an imminent danger, to life, injury, mechanical/electrical failure, he will attach to such ride a Cessation Order tag and the amusement ride or attraction shall not be used until the ride is made safe to the satisfaction of the assistant secretary and the tag has been removed by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:87 (January 1999).

§2509. Medical and First Aid

A. The operator shall ensure the availability of medical aid. In the absence of an infirmary, clinic, or hospital used for the treatment of an injured person, within a ten mile radius of the amusement rides and attractions, the operator shall ensure that a person or persons shall be trained to render first aid. First aid supplies recommended by the American Red Cross'

Anatomy of a First Aid Kit obtainable from the Office of the State Fire Marshal or the local Red Cross office, shall be readily available.

1. The operator shall have conspicuously posted at the park, carnival, fair or festival office, the telephone numbers and locations for physician, hospital, ambulance service and local fire department to be called in the event of an emergency.

2. The operator shall within twenty four (24) hours of knowledge of the event, report to the assistant secretary any amusement ride or attraction incident which results in serious injury.

3. This report shall describe the nature of the incident, name and address of the affected individual, and a description of the injury, as well as the name and location of the facility where the individual was treated.

4. An incident associated with an amusement ride or attraction which immediately result in a fatal injury shall be reported to the assistant secretary in person or by phone within twelve (12) hours.

5. After determination and consultation with the operator, the assistant secretary may require the scene of such incident to be secured and not disturbed to any greater extent than necessary for the removal of the deceased or injured person or persons. If the ride is removed from service by the assistant secretary an immediate investigation shall be completed and the ride shall not be released for repair and operation until after a complete investigation has been made by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:87 (January 1999).

§2511. Inspection Fee and Permit

A. A copy of the Certificate of Inspection issued by the assistant secretary shall be continuously displayed on the ride when the ride is in use. The permit shall be encased in such a manner as to be protected from weather conditions. Duplicates of such permits shall be issued by the assistant secretary for a fee of \$7.50 per each permit.

B. The operator of an amusement ride or attraction shall notify the assistant secretary when ownership is transferred to another. In such case, the new operator shall obtain a new permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:88 (January 1999).

§2512. Operation of Amusement Rides or Attractions

A. The ride operator shall be at least 16 years of age.

B. The operator of an amusement ride or attractions, exclusive of water amusement rides and karts, shall operate the amusement ride or attraction in compliance with the standards adopted in Section 2503.B of these rules, or the equivalency thereof as submitted to and approved by the assistant secretary.

C. The operator shall refuse a passenger seeking admission to an amusement ride or attraction if the passenger cannot meet a guardian or height restriction if the ride is subject to such a restriction. Legible signs to this effect shall be posted in full view of the public seeking admission to rides.

D. The operator of an amusement ride or attraction shall deny entry to any person, if in the opinion of the operator the entry may cause above normal exposure to risk of discomfort or injury to the person who desires to enter, or if in the opinion of the operator the entry may jeopardize the safety of other patrons or employees.

E. A suitable number of non-combustible trash collection containers shall be provided in and around amusement rides. Excessive accumulations of trash or refuse shall be promptly removed.

F. All parts of amusement ride and temporary structures used by passengers or customers shall be maintained in a clean condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:88 (January 1999).

§2513. Maintenance and Inspection Records

A. The operator shall retain, for a period of twelve (12) calendar months, maintenance and inspection records for each amusement ride in accordance with the following ASTM Standards listed in Section 2503.B, F770-93, F853-93, F893-87.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:88 (January 1999).

§2515. Rebuilt and Modified Amusement Rides/Attractions

A. If an amusement ride is materially rebuilt or modified, the operator shall notify the assistant secretary and submit for approval documentation equivalent to that required in ASTM Standard F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (approved April 15, 1994; published June 1994) on work that was done.

B. The ride shall be reidentified, by the operator, by a different name or identification number or both.

C. The ride shall be subject to all other provisions of all applicable rules, regulations and statutes as if it were a new ride not previously used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:88 (January 1999).

§2517. Assembly and Disassembly

The operator of an amusement ride shall comply with the construction manual, or the equivalency thereof as determined by the assistant secretary, for the assembly and disassembly of the ride. The construction manual, or the equivalency thereof

as determined by the assistant secretary, shall be kept with the amusement ride attraction and shall be available for use by the assistant secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:88 (January 1999).

§2519. Brakes and Stops

A. On an amusement ride or amusement attraction where coasting renders the operation dangerous, either during the period while the ride or attraction is being loaded or unloaded or in the case of power failure or other unforeseeable situation a method of braking shall be provided.

B. If cars or other components of an amusement ride or amusement attraction may collide in such a way as to cause injuries upon failure of normal controls, emergency brakes sufficient to prevent these collisions shall be provided in accordance with the manufacturer's design, or the equivalency thereof as determined by the assistant secretary.

C. On amusement rides or amusement attractions which make use of inclined tracks, automatic anti-rollback devices shall be installed to prevent backward movement of the passenger carrying units in case of failure of the propelling mechanism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:89 (January 1999).

§2521. Internal Combustion Engines

A. Internal combustion engines for amusement rides or attractions shall be capable of handling the assigned load.

B. Where fuel tanks of internal combustion engines for amusement rides are not of adequate capacity to permit uninterrupted operation during normal operating hours, the amusement ride shall be closed down and unloaded or evacuated during the refueling procedure. The fuel supply shall not be replenished while the engine is running.

C. Where an internal combustion engine for an amusement ride or attraction is operated in an enclosed area, the exhaust fumes shall be discharged to outside the enclosed area, as required by NFPA 70, National Electrical Code, 1996 Edition.

D. Internal combustion engines for amusement rides or attraction shall be located to permit proper maintenance and shall be protected by guards, fencing or enclosure in accordance with NFPA 70, National Electrical Code, 1996 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:89 (January 1999).

§2523. Wire Rope

A. Wire rope on amusement rides or attractions shall be thoroughly examined weekly. Wire rope found to be damaged

shall be replaced with new rope of proper design and capacity as per the manufacturer's data tag or as approved by the assistant secretary. Any of the following conditions shall be cause for rope replacement:

1. in running ropes, six randomly distributed broken wires in one rope lay or three broken wires in one strand of one rope lay;

2. in pendants or standing ropes, evidence of more than one broken wire in one rope lay;

3. abrasion, scrubbing or peening causing loss of more than 1/3 of the original diameter of the outside diameter of the outside individual wires;

4. corrosion;

5. kinking, crushing, birdcaging, or other damage resulting in distortion of the rope structure;

6. heat damage;

7. reduction from normal diameter of more than 3/64 inch for diameters up to and including 3/4 inch, 1/16 inch for diameters 7/8 inch to 1 1/8 inches, 3/32 inch for diameters 1-1/4 inch to 1 1/2 inches;

8. birdcaging or other distortion resulting in some members of the rope structure carrying more load than others; or

9. noticeable rusting or development of broken wires in the vicinity of attachments. When this condition is localized in an operational rope, it may be eliminated by making a new attachment.

B. Wire ropes used to support, suspend, bear or control forces and weights involved in the movement and utilization of tubs, cars, chairs, seats, gondolas, other carriers, the sweeps, or other supporting members of an amusement ride or attraction shall not be lengthened or repaired by splicing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:89 (January 1999).

§2525. Hydraulic Systems

A. Hydraulic systems and other related equipment used in connection with amusement rides or attractions shall be free of leaks and maintained to ensure safe operation at all times.

B. An amusement ride or attraction which depends upon hydraulic pressure to maintain safe operation shall be provided with a positive means of preventing loss in hydraulic pressure that could result in injury to passengers.

C. Hydraulic lines shall be guarded so that sudden leaks or breakage will not endanger the passengers or the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:89 (January 1999).

§2527. Pressure Vessels, i.e., Vacuum Tanks

A. Air compressor tanks, storage tanks and appurtenances used in connection with amusement ride or attractions shall be designed and constructed in accordance with Section VIII of the ASME Code Edition and Addendum mandatory at time of

construction; and shall also be equipped and maintained to ensure safe operation.

B. Air compressor tanks and other receivers used in connection with air compressors shall comply with the Rules of the National Board Inspection Code, 1995 Edition, 1996 Addendum, and the 1997 Addendum.

C. Air compressor tanks and other air receivers used in connection with air compressors shall be inspected operationally at least once a year and internally when considered necessary by a National Board Commissioned inspector, registered with the State of Louisiana to conduct these inspections and a record of each inspection shall be kept.

D. Air compressor tanks and other air receivers used in connection with air compressors shall have the maximum allowable working pressure conspicuously marked thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:89 (January 1999).

§2529. Protection Against Moving Parts

A. The interior and exterior parts of all amusement rides or attractions with which a passenger may come in contact shall be smooth and rounded, free from sharp, rough or splintered edges and corners, with no protruding studs, bolts, screws, or other projections which might cause injury.

B. Interior parts of passenger carrying apparatus upon which a passenger may be forcibly thrown by the action of the ride or attraction shall be adequately padded.

C. Amusement rides or attractions which are self-powered and which are operated by a passenger shall have the driving mechanism guarded and the guard secured in place as to prevent passengers from gaining access to the driving mechanism.

D. Handholds, bars, footrest and other equipment as may be necessary for safe entrance and exit to and from amusement rides or attractions shall be provided and maintained in a safe condition. Such equipment shall be of sufficient strength to support the passengers.

E. Restraining, containing or cushioning devices or a combination of these shall comply with this subsection and be provided and used on all amusement rides where:

1. centrifugal and other forces mechanical malfunction could unseat or dislodge a passenger; or
2. inadvertent movement of a passenger could cause injury to the passenger or any other passenger; or
3. the speed of the ride presents a hazard to a passenger.

F. Restraining, containing or cushioning devices shall be designed, constructed, installed and maintained so as to provide safe support for passengers.

G. Anchorage for the restraining, containing or cushioning devices shall have a strength at least equal to the strength of such devices.

H. All passengers restraints, cushioning or containing devices shall be provided and maintained in accordance with the manufacturers designs and recommendations and shall not

be modified without the approval of the manufacturer and the assistant secretary.

I. All exposed mechanical parts shall have guards installed to prevent possible personal contact while in operation. Any safeguarding means shall not be used that would cause injury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:90 (January 1999).

§2531. Electrical Equipment

A. The National Electrical Code, NFPA Number 70, 1996, is hereby adopted as the standard for application in the enforcement of the provisions of R.S. 40:1484.1, et seq. This document may be purchased from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

B. All electrical wiring and equipment used for amusement rides or attractions or for lighting shall be installed and maintained in accordance with the National Electrical Code, NFPA Number 70, 1996.

1. The outlets of electrical power lines carrying more than 120 volts shall be clearly marked to show their voltage.

2. All electrical transformer substations shall be properly enclosed and proper warning signs shall be posted.

3. Electrical wiring and equipment located outdoors shall be of such quality and construction or protection that exposure to weather will not interfere with its normal operation.

4. Elevated power lines crossing access or other roads within the proximity of an amusement ride or attraction shall be so suspended as to provide a vertical clearance of at least fifteen feet from the road surface or three feet above any vehicle used within the grounds of a carnival or amusement park, whichever is greater. A horizontal clearance of at least three feet shall be provided on each side of the normal passage space of vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:90 (January 1999).

§2533. Temporary Wiring

A. If temporary wiring is used it shall be in compliance with the applicable section of the National Electrical Code, NFPA Number 70, 1996.

B. Temporary electrical power and lighting installations shall be permitted during the period of construction and remodeling of buildings, structures, equipment or similar activities.

C. Temporary electrical power and lighting installations shall be permitted for a period not to exceed 90 days.

D. All lamps for general illumination shall be protected from accidental contact or breakage. Protection shall be provided by elevation of at least 7 feet from normal working surface or by a suitable fixture or lampholder with a guard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:90 (January 1999).

§2535. Grounding

All grounding shall comply with Article 525 of the National Electrical Code, NFPA Number 70, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:91 (January 1999).

§2537. Construction

A. All amusement rides or attractions shall meet the requirements of the ASTM Standard for the Design and Manufacture of Amusement Rides (F1159-94) and the NFPA Life Safety Code 101, 1997 Edition.

B. Water ride data plates shall contain a location number of the ride or flume and the maximum dispatch time interval.

C. The ride operator shall maintain all of the information as required by the following ASTM Standards; F698-94 Standard Specification for Physical Information to be Provided for Amusement Rides and Devices (July 1994), F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January 1993) and make it available to the assistant secretary, upon request. If this information is not available it shall be developed by the owner/operator and submitted to the assistant secretary for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:91 (January 1999).

§2539. Means of Access and Egress

A. Safe and adequate means of access and egress from amusement rides or attractions shall be provided as required by NFPA Life Safety Code 101, 1997 Edition and the ASTM Standard F1159-94 Standard Practice for the Design and Manufacture of Amusement Rides and Devices (April 1994).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:91 (January 1999).

§2541. Walkways and Ramps

A. Walkways and ramps shall be erected with a slope not greater than one in ten except that when nonslip surfaces are provided, the grade may be increased to a maximum of one in eight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:91 (January 1999).

§2543. Fire Prevention

A. All buildings over one story in height shall be constructed or protected in accordance with NFPA 101-Chapter 8, 1997 Edition.

B. All buildings located within 20 feet of lot lines or within 20 feet of other buildings on the same lot, shall be of protected noncombustible or protected masonry enclosed construction or better.

C. Fabrics constituting part of an amusement ride or attraction shall be flame resistant to meet the provisions of NFPA 101, Chapter 8, 1997 Edition.

E. Approved fire extinguishers in accordance with NFPA 10, 1994 Edition shall be provided at the following locations to secure reasonable and adequate protection from fire hazards:

1. at or near all operating gasoline or diesel engines;
2. at or near all amusement ride or attraction stands, excluding water flumes; and
3. at each food handling booth where cooking is done.

F. Flammable waste such as oily rags and other flammable materials shall be placed in covered metal containers which shall be kept in easily accessible locations. Such containers shall not be kept at or near exits.

G. Gasoline and other flammable liquids and flammable gases when stored shall be kept in reasonably cool and ventilated places. Such liquids shall be in containers as prescribed by NFPA 30, 1996, Chapter 4. Smoking and the carrying of lighted cigars, cigarettes, or pipes is prohibited within 50 feet of any area where such liquids or gases are stored, or are transferred from one container to another. Signage shall be posted stating *No Smoking*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:91 (January 1999).

§2545. Water Flumes, Structural Design

A. Structural Design. The flumes' structural design and materials shall be in accordance with ASTM Standard F1159-94 Practice for the Design and Manufacture of Amusement Rides and Devices (April, 1994). The flumes and pools shall be watertight and their surfaces shall be smooth and easy to clean.

B. All stairways used as part of a slide shall be constructed to meet the requirements of NFPA 101, 1997 Edition.

E. Visitor and Spectator Areas: The space used by visitors and spectators shall be distinctly and absolutely separated from those spaces used by sliders. Visitors and spectators in street clothes may be allowed within the perimeter enclosure if they are confined to an area separated from the space the sliders use.

F. Typical Posted User Safety Warnings for Slide Operational Use:

1. no running, standing, kneeling, rotating, tumbling, or stopping in flumes or tunnels;

2. no diving from flume at any time;
3. never use this slide when under the influence of alcohol or drugs;
4. only one person at a time. Obey instructions of top pool supervisor and lifeguard at all times;
5. never form chains unless authorized by slide manager or by posted instructions;
6. keep hands inside the flume;
7. leave the landing pool promptly after exiting from slide; and
8. keep all glasses, bottles and food away from pools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:91 (January 1999).

§2547. Pumps

- A. Pumps and motors shall be provided to circulate the water in the splash pool and slide.
- B. Pump units shall be accessible for inspection and service in accordance with NFPA 70, 1996 Edition.
- C. All motors shall have thermal overload protection in accordance with NFPA 70, 1996 Edition..
- D. The motor frame shall be properly grounded, in accordance with the NFPA 70, 1996 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:92 (January 1999).

§2549. Water Quality

- A. Water quality shall be maintained to meet the requirements of the Louisiana Department of Health and Hospitals and the requirements of ASTM Standard F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:92 (January 1999).

§2551. Electrical Safety and Lighting

- A. The National Electrical Code, 1996 Edition, as published by the National Fire Protection Association, shall be used for the wiring and grounding of all electrical equipment associated with a flume and for the grounding of all metal appurtenances.

- B. Whenever flumes are operated after dark, artificial lighting shall be provided in upper and lower pool and deck areas, walkways, stairways, and flumes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:92 (January 1999).

§2553. Operation, Water Flumes

- A. The manufacturer or the general contractor of the flume shall provide the operator with a detailed written operational manual, or guide, for all phases of operations and normal maintenance of each component of the system as per ASTM Standards F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December, 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993)

- B. The guide shall be kept in a secure area and made available to each employee or inspector as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:92 (January 1999).

§2555. Responsibility of Flume Operators

- A. Flume operators shall meet the requirements of ASTM Standard F770-93 Standard Practice for Operation Procedures for Amusement Rides and Devices (December, 1993) and F853-93 Standard Practice for Maintenance Procedures for Amusement Rides and Devices (January, 1993).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:92 (January 1999).

§2557. Emergency Procedures

- A. A written plan for emergencies shall be carefully devised and kept up-to-date. All employees shall be trained and drilled periodically in the execution of the plan.

- B. The emergency plan shall encompass crowd control and safe evacuation, drownings, electrical shock, heat prostration, fractures, poisonings, cuts and burns, neck and back or spinal injuries and exposure to chlorine gas. Each of these situations is addressed in the latest American National Red Cross handbook on first aid, a copy of which shall be on hand at the same location as the emergency plan, the first-aid kit, and the emergency telephone numbers.

- C. Each Water Flume location shall have available the following first-aid supplies:

1. first-aid kit, a standard 24-unit kit stocked and readily accessible for use;
2. a stretcher and blankets;
3. a standard plywood backboard or other acceptable splint, made to the specification of the American National Red Cross, for persons with back and neck injuries; and
4. an area or room shall be set aside for the emergency care of casualties.

- D. All water flume locations shall have posted by the phones a list of current emergency numbers, to include the nearest available ambulance service, hospital, rescue squad, police assistant secretaries, and fire department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:92 (January 1999).

§2559. Go-Kart Rules and Regulations

A. Kart Design

1. The speed of each kart shall be limited or governed to not exceed the following: The maximum adult track speed shall not exceed 25 mph and kiddie track speed shall not exceed 10 mph. Speeds other than defined will require approval from the assistant secretary.

2. Whenever the design of a kart enables the readjustment of the governor speed, the means of adjustment shall not be accessible to the patron of the kart.

3. The seat, backrest, seat belts, and leg area of every kart shall be designed to retain the patron inside the kart in the event of a collision or overturn.

4. Karts shall be fitted with a shoulder harness and/or belt restraint system as required by the kart manufacturer and acceptable to the assistant secretary.

5. Karts shall be provided with sufficient guards to prevent anyone from coming in contact with the drive chains, belts, hot mufflers, engines or rotating parts.

6. Karts shall have bumpers, wheels and body parts that are comparable to that installed by the original manufacturer.

7. Kart wheels shall be enclosed, guarded or operated so the wheels of a kart cannot interlock with or ride over the wheels of another kart.

8. The kart steering wheel, hub and all exposed components shall be padded or helmets and face shields worn to minimize the risk of injury to any patron in the event of a collision or overturn.

9. The kart fuel tank shall be designed and mounted to prevent it from damage or leaking in the event of a collision or overturn.

10. Headrests or roll bars on a kart shall extend above the patron's head and be capable of supporting the weight of the kart and patron as required by the manufacturer. In the event the manufacturer fails to recommend or address this area the karts shall be equipped with roll bars acceptable to the assistant secretary.

11. Karts shall be provided with impact absorbing bumpers, or energy absorption body parts.

12. Karts shall have sufficient muffler systems installed to prevent any noise levels which will interfere with the track operations, adjacent businesses, residential areas or damage the hearing of employees or patrons.

13. The brake and throttle controls on a kart shall be clearly identified. The brake and throttle controls shall be foot operated and return automatically to a non-operational position when released.

14. Karts shall be individually identified either by numbers, alpha characters or other markings acceptable to the assistant secretary.

B. Track Design

1. The design of the kart track shall be consistent with the kart manufacturers' recommendations. In the absence of any manufacturers' recommendations, the track design shall comply with the current industry standards acceptable to the assistant secretary.

2. Cones may be used on tracks as a warning device and to notify the patron of upcoming changes in the track conditions and are used for the following specific reasons:

a. to notify drivers of impending course changes;

b. to outline the track and mark key points such as the apex of the turns; and

c. as a warning device to notify the drivers of the severity of upcoming turns by the location and number of cones prior to the turn;

d. cone placement:

i. on the inside corners; one cone to alert the driver and locate the apex;

ii. on the outside corner; two cones to identify minor course changes;

iii. three cones to identify course changes which requires a slower speed to safely negotiate the turn; and

iv. four and five cones to identify areas where both slower speed and applied braking will be necessary to safely complete the course.

e. once the proper cone locations have been located for the track, these locations shall be marked with high visibility paint under the proper location of the cone. This will alert racing attendants to the correct location of the cones when they are displaced.

3. The track shall have a hard smooth surface.

4. The track shall provide road grip sufficient to enable the kart to be driven safely at maximum speed and shall be free of ruts, holes, bumps, water, oil, dirt, or other debris.

5. Track surface and design not covered by manufacturers' recommendations or in the absence of such recommendations must be approved by the assistant secretary.

6. The width of the track must be a minimum of 16 feet and maximum of 25 feet. The turns on an oval track must be a minimum of five feet wider than the straight away. The minimum radius of the turns is 15 feet.

7. The track shall have signs that indicate one direction of travel and no U-turns permitted. These signs shall be posted at various locations around the track perimeter. Signs, signal lights and other safety equipment shall be maintained in operational condition at all times when open to the public.

8. The track shall have no intersecting course configurations. Pit entrances and exits are allowed.

9. The shoulder shall be level with the track and marked with cones. White or yellow lines at least four inches in width shall be used to mark all inside and outside edges of the kart track except where barriers are provided along the inside and outside edges of the kart track.

10. Barriers shall be designed to prevent a kart from overturning or running over or under the barrier and designed to bring a kart safely to a full stop or guide the kart safely back onto the track.

a. Barriers shall be placed:

i. between tracks or sections of tracks within 30 feet of each other and constructed of materials that will not readily ignite;

ii. between the track and obstructions or hazards located with 30 feet from the track;

iii. along all non-access and non-egress edges of the pit area; and

iv. between the track and any area accessible to spectators.

11. Fencing shall be at least 48 inches in height. The fence and gates shall be designed so a four-inch sphere cannot pass through any opening. Fencing shall be located around every kart track.

12. Pit area for loading and unloading must be separated from the track by a fence or barrier. The pit area must be the same surface as the track and have separate entrance and exit lanes.

13. Electrical installations must comply with the National Electrical Code (NFPA-70, 1997 Edition) and include lighting for night operation, if operations are conducted after dark.

14. Proposals for construction of new kart tracks in the State of Louisiana shall be submitted to the Office of the State Fire Marshal, Mechanical Safety Section and other appropriate agencies before beginning construction. The following information shall accompany any application or proposal and shall include but not be limited to:

a. One copy of site plans and all accompanying documentation.

b. A copy of all required local, parish or state permits such as but not limited to business license, electrical, building, or plumbing permits. When all inspections are completed by local, parish or state agencies one copy of the completed inspection report shall be sent to the Louisiana State Fire Marshals Office, Mechanical Safety Section for enclosure in the facility's permanent file. Any alterations or modifications shall be approved prior to beginning work as required for new construction.

15. Fire Protection

a. Kart tracks shall be equipped with ABC dry chemical fire extinguishers with a minimum of five pounds capacity as provided for in National Fire Protection Association-10. Standard for Portable Fire Extinguishers, 1997 Edition, Chapter 1.

b. A fire extinguisher shall be readily accessible from all areas of the track and one fire extinguisher shall be kept in the pit and refueling area. The fire extinguisher location shall be prominently marked, easily accessible and approximately 36 inches above the ground.

16. Refueling Area

a. Karts shall be refueled in a designated location remote from any area accessible to the public. Fuel storage and transfer cans must meet the requirements of NFPA 30, 1997 Edition. Any fuel spillage must be promptly cleaned and prevented from running onto the track or any area accessible to the public. Warning signs must be prominently displayed stating that smoking is prohibited in the refueling area.

b. All kart motors shall be turned off during refueling.

17. Track Operation

a. Karts may only be operated by patrons within height limits set by the manufacturer. If no height limit is set by the manufacturer, patrons shall be at least 52 inches tall and have a leg length that can reach the brake and throttle controls from the patron's seat in order to drive an adult kart.

b. Only patrons less than 52 inches in height with a leg length sufficient to reach the brake and throttle controls from the patron's seat shall be permitted to operate a kiddie kart.

c. Adult karts and kiddie karts shall not be operated on the same track at the same time.

d. No kart shall be operated during a lightening storm, a period of tornado warning, fire, riot or other civil disturbance in the area of the track or in an adjacent area. If any of these events occur while the track is in operation, patrons shall be unloaded and evacuated from the ride and the ride shut down until normal, safe operational conditions are established.

e. Kart tracks shall be monitored during operation either directly by attendants, or indirectly by electronic visual and audio means acceptable to the assistant secretary.

f. A kart losing oil or fuel shall immediately be removed from the kart track. All karts must be stopped immediately and the track cleaned prior to restarting.

g. When the kart manufacturer recommends, or they are deemed necessary by the assistant secretary, the use of helmets must be provided for all patrons to use. Helmets, if used, must fit the patron's head correctly. All helmets must be cleaned with disinfectant twice daily.

h. Karts designed for single or multiple riders shall use a shoulder harness and/or belt restraint system as required by the kart manufacturer. When deemed necessary for additional protection of kart patrons the assistant secretary may require the addition and use of a shoulder harness or belt restraint system on all karts.

i. Patron's loose clothing and hair longer than shoulder length must be secured prior to operating any kart. Fully enclosed shoes must be worn by kart patrons at all times during operation of a kart.

j. Patrons are prohibited from smoking during kart operation.

k. Track attendants shall not allow patrons to leave their karts either in the pit or on the track unless assisted by track or pit attendants.

RULE

**Department of Transportation and Development
Division of Aviation and Public Transportation**

Safety Requirements for Railroad Grade Crossings
(LAC 70:IX.Chapter 13)

1. The kart track operator shall post a conspicuous warning sign at the entrance to the kart track. The sign shall be at least two feet by two feet in sharply contrasting colors and shall contain the following warning:

Persons with the Following Conditions Are Prohibited from this Ride:

- 1. heart conditions;
- 2. back or neck ailments; or
- 3. pregnancy.

n. The kart track operator must have a sign posted at the ticket window or track entrance and in the pit area that conveys, at a minimum, the following rules and regulations.

i. The patron height limit specified by the manufacturer, or no less than 52 inches for adult karts and no more than 52 inches for kiddie karts.

ii. Keep both hands on the wheel and both feet in the kart at all times. Do not get out of the kart unless track attendant is present.

iii. All loose clothing and hair longer than shoulder length must be secured. Fully enclosed shoes must be worn by kart patrons at all times during operation of kart.

iv. No smoking in kart or pit area.

v. Persons under the influence of intoxicants will not be allowed to operate karts.

vi. The use of private karts or vehicles will be prohibited on kart track when they are open to the public.

C. Record Retention and Inspection

1. Daily inspections must be made on all karts prior to operation. Inspections shall include but not be limited to: tires, padding, steering wheel, frame welds, spindles, axles, seat or shoulder belts, roll bars, gasoline tank condition, brake and gas pedal operation, and other parts as recommended by the kart manufacturer or the assistant secretary.

2. Weekly, monthly and annual inspections shall be performed as recommended by the kart manufacturer or the assistant secretary.

3. A track operation manual shall be written in the English language and available for review by the assistant secretary.

4. The kart track shall have and demonstrate an emergency plan for evacuation of patrons and employees in the event of an emergency. This shall include but not be limited to: fires, kart collisions, dangerous weather, obstructions on the track, handling intoxicated patrons and emergency first aid.

5. The kart track shall maintain records of all required inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1484.3 and 49:953.B.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 25:93 (January 1999).

Nancy Van Nortwick
Undersecretary

9901#040

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby promulgates a rule entitled "Safety Requirements for Railroad Grade Crossings", in accordance with R.S. 48:390, R.S. 48:390.1 and R.S. 32:172.

Title 70

TRANSPORTATION

Part IX. Aviation and Public Transportation

Chapter 13. Safety Requirements for Railroad Grade Crossings

§1301. Closures of Grade Crossings

A. Criteria to be considered by the Department in determining whether closure of a railroad grade crossing is necessary:

- 1. estimated daily vehicular use at the crossing;
- 2. average number of trains passing the crossing per day (as provided by the railroad);
- 3. availability of alternative routes and distances to such routes;
- 4. train speeds at the crossing (as provided by the railroad);
- 5. highway/railroad accident/incident history at the crossing;
- 6. existing warning devices at the crossing;
- 7. degree of difficulty involved in improving the roadway approach by profile or in providing adequate warning devices such as flashing lights, gates, etc.;
- 8. sight distance and visibility at the crossing;
- 9. angle of intersection of alignments of the roadway and the railroad;
- 10. redundancy of crossings in the area;
- 11. proximity of a state highway, new crossing or recently upgraded crossing;
- 12. number of school busses using the crossing (as provided by the local governing authority);
- 13. number of unique vehicles using the crossing, such as those which carry hazardous materials or passengers for hire (as provided by the local governing authority);
- 14. effect of any change on usage by emergency vehicles (as provided by the local governing authority).

B. In formulating its decision concerning closures, the Department may contact the appropriate local governing authority for assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation and Public Transportation, LR 25:95 (January 1999).

§1303. Obstruction of Roadways at Railroad Grade Crossing for a Maximum of Twenty Minutes—Variances

A. Pursuant to the provisions of R.S. 48:390 and R.S. 48:390.1, any railroad or public agency may submit a formal application to the Department requesting a variance from the requirements of that section relative to blockage of a public highway/railroad at-grade crossing for more than twenty minutes or may request that different regulations be applied in connection with operation over a specific crossing where local conditions require. This rule is applicable only to the public highway/railroad crossings.

B. Elements of the application:

1. identity of any public agencies within the geographic area;
2. identity of any railroads which may be affected by the variance;
3. identify any previous steps which may have been taken in an attempt to achieve an alternative to the proposed variance;
4. provide Federal Railroad Administration requirements that would affect the feasibility of meeting the allowable conditions as provided for in R.S. 48:390 and R.S. 48:390.1;
5. identify the unique local conditions which require or support the variance.

C. The application for variance, together with all requested information, shall be submitted to the Department of Transportation and Development Highway/Rail Safety Engineer.

D. A committee composed of representatives of the following Department areas of expertise review the application for variance:

1. railroad unit;
2. rail management program;
3. legal section;
4. appropriate district.

E. Upon completion of the review of the application, the committee shall make a recommendation to the Department's Chief Engineer.

F. Based upon the decision of the Chief Engineer, a formal response of the Department will be forwarded to the railroad or public agency which submitted the formal application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390 and 390.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation and Public Transportation, LR 25:96 (January 1999).

§1305. Criteria for Erection of Stop Signs at Highway Grade Crossings

A. In accordance with the provisions of R.S. 32:172, the Department will assist local governing bodies in evaluation of public highway/railroad at-grade crossings which have no active warning devices for consideration of stop signs which would enhance the regulatory warning of the crossbuck sign.

B. Considerations:

1. number of collisions which have occurred at the crossing;
2. whether the crossing is considered "high profile";
3. whether the crossing has reduced site distance or visibility on the approaches so that vehicular traffic must substantially slow down or stop in order to see up and down the track.

C. The Department shall issue guidelines and basic recommendations to the local governing authority for consideration in placement of stop signs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:172.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation and Public Transportation, LR 25:96 (January 1999).

Kam K. Movassaghi, Ph.D., P.E.
Secretary

9901#041

RULE

**Department of Transportation and Development
Highways/Engineering**

Wireless Telecommunications Permit
(LAC 70:III.Chapter 23)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby promulgates a rule entitled "DOTD Wireless Telecommunications Permit", in accordance with R.S. 48:381.2.

Title 70

TRANSPORTATION

Part III. Highways/Engineering

**Chapter 23. DOTD Wireless Telecommunications
Permit**

§2301. Purpose

In accordance with the provisions R.S. 48:381.2, the Chief Engineer of the Department of Transportation and Development, or his designee, may issue nonexclusive permits, on a competitively neutral and nondiscriminatory basis for use of public rights-of-way to utility operators for the purpose of installation of wireless telecommunications equipment and facilities within highway rights-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:96 (January 1999).

§2303. General Conditions and Standards

A. Any facilities placed within the highway right-of-way shall be placed in accordance with existing Federal, State, or

local laws and the standards of the Department. Environmental clearances may also be necessary and are the responsibility of the permit applicant.

B. All facilities, after having been erected, shall at all times be subject to inspection and the Department may require such changes, additions, repairs, relocations and removal as may at anytime be considered necessary to permit the relocation, reconstruction, widening and maintaining of the highway and to provide proper and safe protection to life and property on or adjacent to the highway, or in the interest of safety to traffic on the highway. The cost of making such changes, additions, repairs and relocations shall be borne by the permit applicant, and all cost of the work to be accomplished under this permit shall be borne by the permit applicant.

C. The proposed facilities, their operation or maintenance shall not unreasonably interfere with the facilities or the operation or maintenance of the facilities of other persons, firms or corporations previously issued permits for use and occupancy of the highway right-of-way, and the proposed facilities shall not be dangerous to persons or property using or occupying the highway or using facilities constructed under previously granted permits of use and occupancy.

D. It is the duty of the applicant to determine the existence and location of all facilities within the highway right-of-way by reviewing Departmental records for previous permits in the applicable area.

E. Installations within the highway right-of-way shall be in accordance with applicable provisions contained in the following: AASHTO Guide for Accommodating Utilities within Highway Right of Way, Code of Federal Regulations 23 (CFR 23), National Electrical Safety Code C2, 1996 Federal Telecommunications Act. Those facilities not included in the above mentioned documents shall be in accordance with accepted practice. Where standards of the Department exceed those of the above cited codes, the standards of the Department shall apply. The Department reserves the right to modify its policies as may be required if conditions warrant.

F. Data relative to the proposed location, relocation and design of fixtures or appurtenances as may be required by the Department shall be furnished to the Department by the applicant free of cost. The permit applicant shall make any and all changes or additions necessary to make the proposed facilities satisfactory to the Department.

G. Cutting and trimming of trees, shrubs, etc., shall be in accordance with the Department's EDSM IV.2.1.6 and Vegetation Manual, as revised.

H. The applicant agrees to defend, indemnify, and hold harmless the Department and its duly appointed agents and employees from and against any and all claims, suits, liabilities, losses, damages, costs or expenses, including attorneys' fees sustained by reason of the exercise of their permit, whether or not the same may have been caused by the negligence of the Department, its agents or employees, provided, however, that the provisions of this last clause (whether or not the same may have been caused by the

negligence of the Department, its agents or employees) shall not apply to any personal injury or property damage caused by the sole negligence of the Department, its agents or employees, unless such sole negligence shall consist or shall have consisted entirely and only of negligence in the granting of a permit.

I. The permit applicant agrees to provide proof of liability insurance sufficient to indemnify the Department from claims resulting from accidents associated with the use of the applicable permit. The applicant and its insurer shall notify the Department in writing at least thirty (30) days prior to cancellation of the insurance or prior to any other changes affecting the insurance coverage.

J. The applicant is the owner of the facility for which a permit is requested and is responsible for maintenance of the facility. Any permit granted by the Department is granted only insofar as the Department possesses the power and right to grant the same.

K. Any permit granted by the Department is subject to revocation at any time.

L. Signing for warning and protection of traffic in instances where workmen, equipment or materials are in close proximity to the roadway surfacing, shall be in accordance with requirements contained in the Department's Manual on Uniform Traffic Control Devices. No vehicles, equipment and/or materials shall operate from, or be parked, stored or stock-piled on any highway, median, or in an area extending from the outer edge of the shoulder of the highway on one side to the outer edge of the shoulder of the highway on the opposite side.

M. All provisions and standards contained herein relative to the installation of utilities shall apply to future operation, service and maintenance of utilities.

N. Drainage in highway side and cross ditches must be maintained at all times. The entire highway right-of-way affected by work under a permit must be restored to its preexisting condition, and shall be approved by the Department's Right-of-Way Permits Engineer.

O. Any non-metallic or non-conductive underground facility must be installed with a non-corrosive metallic wire or tape placed directly over and on the center of the facility for its entire length within highway right-of-way. Wire or tape must be connected to all facilities.

P. Prior to performing any excavations, the applicant is required to call Louisiana One-Call. If installing any underground facilities, such as cable or conduits, the applicant must be a member of Louisiana One-Call.

Q. A copy of the permit applicant's FCC license and registration number shall be submitted with the permit application. For towers in excess of 200 feet in height, a copy of FAA approval shall also be submitted to DOTD. All registration numbers shall be posted on the tower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:96 (January 1999).

§2305. Specific Standards for Installation and Operation of Wireless Telecommunication Tower Facilities

A. All materials and workmanship shall conform to the requirements of the applicable industry codes and to Department specifications.

B. All safety precautions for the protection of the traveling public shall be observed. Delays to traffic will be minimized to the maximum extent possible during construction of wireless telecommunication facilities. Acceptable delays will be determined and approved by the DOTD Permit Engineer. Thereafter, no traffic delays are permissible. These precautions shall be in force and effect not only during the construction phase of the installation, but shall also be in force and effect at all times that maintenance is required. (See Manual on Uniform Traffic Control Devices-MUTCD.)

C. There shall be no unsupported, aerial installation of horizontal or longitudinal overhead power lines, wireless transmission lines, or other overhead wire lines, except within the confines of the wireless operator's facility as described herein.

1. Coaxial transmission lines, tower light power cables, and other wires or cables necessary for the proper and safe operation of the telecommunication facility required to crossover from the operator's equipment pad, shelter, or other means of communications equipment housing, to the vertical tower structure, shall be supported along their entire horizontal length by a structural cable trough and shall not exceed twenty-five (25) feet in length.

2. Electrical utility lines, wireline telephone lines, and other utility services transmitted via wireline shall be installed underground in accordance with the National Electrical Code, and the department's specifications.

3. It is the responsibility of the wireless facility operator to negotiate with owners of preexisting utilities in order to have the preexisting lines relocated to accommodate these new installations.

4. Joint use agreements and existing permits and servitudes will be taken into consideration in determining areas for installations.

D. All excavations within the limits of the right-of-way shall be backfilled and tamped in six inch layers to the density of the adjacent undisturbed soil. Where sod is removed or destroyed, it shall be replaced within one week. Where existing soil material is, at the discretion of the Department, unsuitable for backfill, select material shall be furnished in lieu thereof, and the existing material shall be disposed of by approved methods.

E. Where total clearing and grubbing is required by the telecommunication facility operator, the operator is authorized to retain all cleared timber and shall be responsible for removing all cleared timber from the right-of-way. The operator must follow-up with submittal of a landscape plan which may include an erosion control seeding plan approved by DOTD.

F. Installations through drainage structures are strictly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:98 (January 1999).

§2307. Order of Preference in Location Selection: (to be determined by the Department)

- A. Rest areas and stationary weigh stations.
- B. Power poles and light standards.
- C. On longitudinal elevated structures.
- D. Co-located on DOTD-owned communications tower facilities.
- E. Inside interchange loops and adjacent on/off ramps.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:98 (January 1999).

§2309. Fees

A. The following fees shall apply to wireless telecommunications installations placed within State highway rights-of-way.

Type of Tower	High Demand	Medium Demand	Low Demand
Self-Supporting Tower/Antenna	Fee-\$30,000	Fee-\$15,000	Fee-\$10,000
Monopole/Antenna	Fee-\$21,000	Fee-\$12,500	Fee-\$7,500
Small Attachments to Existing Utility/Light Poles	Fee-\$6,000	Fee-\$5,000	Fee-\$4,000
Attachment on DOTD Tower	Fee-\$50,000	Fee-\$30,000	Fee-\$15,000
Video Cameras	Supply feed to DOTD	Supply feed to DOTD	Supply feed to DOTD

B. The Department of Transportation and Development, Office of Utility Permits shall have on hand during business hours maps which specify the sections of the state which are designated as "High Demand", "Medium Demand", and "Low Demand".

C. All permit fees must be paid to the Department by check or money order. The Department will not accept cash.

D. All permits will be in force and effect for a period of one year, but may be renewed for the same fee each year for a maximum of 10 years.

E. The Department may waive fees in exchange for shared resources.

F. The Department may waive fees for its agents, i.e. those permit applicants who erect facilities, attachments or cameras on behalf of the Department in order to conduct Departmental work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:98 (January 1999).

§2311. Types of Towers Permitted

A. In rest areas, weigh stations, maintenance units, and other large tracts of property:

1. 350 ft. (maximum) self supporting lattice type towers;
2. 195 ft. (maximum) monopole tower;
3. lighted monopole tower replacement of light standard;
4. existing communication tower.

B. Other acceptable areas:

1. 195 ft. (maximum) monopole tower;
2. lighted monopole tower replacement of light standard;
3. elevated structure;
4. 350 ft. (maximum) self supporting lattice type towers;
5. existing communication tower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:99 (January 1999).

§2313. Co-Location

A. DOTD communications equipment shall be allowed to co-locate on wireless facility towers, at no cost to DOTD, provided that the tower's structural capacity is adequate to safely support such additional use; the existing space on the tower is at the height DOTD desires; and no technical factors exist which would prohibit such a co-location.

B. Wireless facility operators, in certain instances, may be permitted to strengthen DOTD-owned towers, at the sole cost of the wireless facility operator, to provide additional structural capacity to other users. Ownership of the new tower and responsibility for maintaining the tower shall be negotiated prior to issuance of the permit, and shall be stated on the front of the permit. Applicant shall submit a structural analysis with the permit application.

C. Each wireless facility operator which co-locates on existing wireless telecommunication facilities operating within DOTD rights-of-way shall be subject to the same conditions and requirements which apply to the owner of the tower. The co-locator shall meet all Departmental standards and policies and shall access the facility only after receiving prior written permission from the Department.

D. When co-locating on an existing wireless telecommunication facility, each installation must be permitted separately by the co-locating facility owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:99 (January 1999).

§2315. Attachments to Existing Bridge Structures

A. No authorized attachment to an existing structure shall cause technical interference with any equipment on the facility.

B. Plans will be submitted to the Bridge Design Engineer and the Structures and Facilities Maintenance Engineer for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S.

48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:99 (January 1999).

§2317. Access Requirements

A. Repairs under the roadway will not be allowed if such repairs necessitate open cutting the highway. If a problem occurs with a line crossing, the applicant must install a new crossing. The applicant must bear 100 percent of the cost.

B. Prior to the start of construction of wireless telecommunication facilities, the District Permit Office shall be contacted and notified of the required construction time to complete the wireless facility. The Permit Engineer may provide the operator with a specific authorized duration for access to the construction site.

C. Facilities requiring less than 6 accesses per year.

1. Access to the telecommunication facilities located adjacent to controlled access highways shall be first from the land side, second from the interchange (longitudinally) and third from the highway (to be approved in each instance). This shall not apply to those facilities with pre-existing access, such as rest areas, weigh stations or District Offices.

D. The applicant shall contact the DOTD District Permit Office and obtain approval for each time that the facility must be accessed, including routine maintenance and meter reading, as well as any other access. For non-emergency accesses, the applicant shall give at least 2 days notice, and no more than 10 days notice. The applicant shall give as much notice as possible for emergency access; and shall inform the DOTD District Permit Office after the fact when it is not possible to give advanced notice.

E. Facilities requiring 6 or more accesses per year.

1. Access to the facility shall meet all standard driveway requirements. Access to facilities located adjacent to controlled access highways shall be from the land side. This shall not apply to those facilities with pre-existing access, such as rest areas, weigh stations or District Offices.

2. The applicant shall contact the DOTD District Permit Office and obtain approval for any change in the structure or configuration of the facility. Approval from DOTD is not required for routine maintenance or minor changes to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:99 (January 1999).

§2319. Security Requirements

A. Fences, parking, and other security measures may be permitted in accordance with other DOTD standards.

B. Traffic barriers and/or crash mitigation structures shall be installed as deemed necessary by the Permit Engineer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 25:100 (January 1999).

Kam K. Movassaghi, Ph.D., P.E.

RULE

**Department of the Treasury
Housing Finance Agency**

**Substandard Housing Assistance for Rural Economies
(SHARE) Program (LAC 16:II.501)**

In accordance with R.S. 49:950 et seq., the Louisiana Housing Finance Agency adopts the following rule establishing the regulations governing the criteria used to award HOME Funds to the Substandard Housing Assistance for Rural Economies Grant Program in connection with the Cranston-Gonzalez National Affordable Housing Act of 1990.

The purpose of this grant is to provide safe, decent, and sanitary housing for owner-occupied homeowners throughout the State of Louisiana.

Title 16

COMMUNITY AFFAIRS

Part II. Housing Finance Agency

Chapter 5. Substandard Housing Assistance for Rural Economies (SHARE) Program

§501. Background

A. The Louisiana Housing Finance Agency (the "Agency"), as administrator of the HOME Investment Partnership Program for non-entitlement areas throughout the state, has established a Substandard Housing Assistance for Rural Economies Grant Program. The Agency is making available \$3,000,000.00 for the SHARE Grant Program. Each local governmental unit selected to participate will receive up to \$150,000.00 to make grants up to \$15,000.00 to qualified homeowners to rehabilitate their homes. Qualified residences must be substandard single unit residences owned and occupied by very, very low income homeowners.

1. Local Government Unit Eligibility. Local Governmental Units must not be a part of a consortium or entitlement area currently receiving HOME Funds and must complete an application in accordance with the Selection

Criteria to qualify for the Substandard Housing Assistance for Rural Economies Grant Program. Local Governmental Units accepted into the program must execute an appropriate agreement with the Agency to comply with federal laws and regulations.

2. Eligible Homeowners. Eligible homeowners must:
a. have income that is at or below 60 percent of the median income for the area within which the municipality is located; and

b. own the single unit residence as his principal residence.

3. Qualified Residences

a. Each residence to be rehabilitated under the SHARE Grant Program must be:

i. a one unit residence, i.e., no multi-unit buildings and no mobile homes;

ii. deficient with respect to one or more conditions which are required to be addressed in order to satisfy the Section 8 Housing Quality Standards (following completion of the rehab, the residence must satisfy the Section 8 Housing Quality Standards) and;

iii. subject to an appraisal which demonstrates that the post-rehab value of the residence does not exceed HUD's 203(b) limits for the area.

b. The cost of rehabilitation of any residence may not exceed 75 percent of the replacement value of the residence.

4. Grant Awards to Eligible Homeowners. The amount of grants to homeowners under the Substandard Housing Assistance for Rural Economies Grant Program may be at least \$1,000, but not in excess of \$15,000.

5. Selection Criteria	Points
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a. Jurisdiction proposes to implement a Community Involvement Program.	25
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b. Jurisdiction proposes to provide Homeowner Training to the residents it serves under the Substandard Housing Assistance for Rural Economies Grant Program.	25
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c. Jurisdiction proposes to have material participation by CHDO or local non-profit organization. (e.g. homeowner training, identification of applicants, etc.)	10
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d. Previous Participation under LHFA's Health and Safety Rehabilitation Grant Programs with no outstanding findings.	10
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e. Project is located in an area targeted for rehabilitation by local jurisdiction. Briefly describe the neighborhood(s) targeted to receive the HOME program assistance.	15
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f. Jurisdiction proposes to serve at least three homes with dual income families.	15
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g. Jurisdiction proposes to serve at least five (5) families at 50 percent or below of area median income.	20
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h. Jurisdiction proposes to rehabilitate at least five Housing Units Serving one or more of the following Special Needs Groups (Check one or more).

- i. Elderly/Handicapped
- ii. Disabled
 - Physically
 - Mentally
- iii. HIV/AIDS
- iv. Single Parent Households
- v. Large Families (5 or more)

i. Jurisdiction proposes to rehabilitate Housing Units in areas within which minorities (i.e., Black, Native American, or Women) constitute a majority of the households.

j. Leverage Ratio for each HOME Dollar (Monies from other sources other than the homeowner to be used in conjunction with HOME funds for rehabilitation)

Minimum Other Dollars	
\$.50	5
\$ 1.00	10
\$ 1.50	15
\$ 2.00	20
Over \$ 2.00	25

k. Projects to be located in parishes listed below qualify for selection criteria points as shown based on the per capita income (poverty level):

- i. West Feliciana-East Carroll-West Carroll-Allen; 30
- ii. St. Martin-Grant-Franklin-St. Helena-Avoyelles-Catahoula-Madison-Vernon-Tensas-Evangeline-Jefferson Davis-Bienville; 25
- iii. Winn-Concordia-Richland-Claiborne-LaSalle-Caldwell-Natchitoches-Red River-Cameron-Assumption-Acadia-Sabine; 20
- iv. Morehouse-Washington-Jackson-Tangipahoa-Pointe Coupee-Webster-Vermillion-Beauregard-East Feliciana-St. Landry-St. Mary-Terrebonne; 15
- v. Lafourche-St. James-Lincoln-Iberia-Iberville-DeSoto-Union St. John the Baptist-Plaquemines-Livingston-St. Bernard-Ouachita; 10
- vi. Bossier-Ascension-Orleans-West Baton Rouge-St. Charles-Jefferson-Calcasieu-Lafayette-St. Tammany-Rapides-Caddo-East Baton Rouge. 5

l. Jurisdiction proposes to rehabilitate housing units listed below in the following parishes in Affected/Disaster Areas due to Tropical Storm Frances/Hurricane Georges in accordance with FEMA 1246DR-LA:

- i. Acadia/Ascension/Assumption/Cameron/Evangeline/LaFourche/Livingston/Plaquemines/St. Bernard/St. James/St. John/St. Tammany/Vermillion/Washington/Tangipahoa. 15

Total
Points

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 25:100 (January 1999).

Mike Cross
Vice President

9901#074

RULE

**Department of Wildlife and Fisheries
Office of Fisheries**

Crawfish Traps (LAC 76:VII.187)

The Secretary of the Department of Wildlife and Fisheries hereby adopts the following rule on minimum mesh requirements of crawfish traps in the eastern portion of the Atchafalaya Basin, Iberville, Iberia and St. Martin Parishes, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§187. Crawfish Traps, Exception to State-Wide

Minimum Mesh Requirements

As required by Act 267 of the 1997 Regular Session of the Legislature, the Secretary of the Department of Wildlife and Fisheries hereby adopts a minimum mesh size for commercial crawfish traps of three-quarters of one inch for the area consisting of the east side portion of the Atchafalaya Basin extending from Morgan City at the Intracoastal Canal to I-10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:322(I).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 25:101 (January 1999).

James H. Jenkins, Jr.
Secretary

9901#072

RULE

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

**Black Bass Regulations—Eagle Lake
(LAC 76:VII.169)**

The Wildlife and Fisheries Commission hereby amends the following rule on black bass (*Micropterus spp.*) on Eagle Lake located east of the Mississippi River in Madison Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§169. Black Bass Regulations, Eagle Lake

The size regulation for black bass (*Micropterus spp.*) on

Eagle Lake located east of the Mississippi River in Madison Parish, Louisiana is as follows:

It shall be unlawful to take or possess, while on the water or while fishing in the water, black bass less than 16 inches total length on Eagle Lake, located east of the Mississippi River in Madison Parish, Louisiana. This rule shall become effective January 20, 1999.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325(C), 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19:909 (July 1993), amended LR 21:477 (May 1995), LR 22:376 (May 1996), LR 25:102 (January 1999).

Bill A. Busbice, Jr.
Chairman

9901#073

Notices of Intent

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Boll Weevil Eradication Commission**

Boll Weevil Eradication (LAC 7:XV.321)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry and the Louisiana Boll Weevil Eradication Commission propose to amend regulations under the authority of R.S. 3:1609 and R.S. 3:1613, for the purpose of creating the Louisiana Eradication Zone and fee payment in the Boll Weevil Eradication Program.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 3. Boll Weevil

§321. Program Participation, Fee Payment and Penalties

A. - A.3. ...

4. Cotton producers who request waiver of the assessment on any acre planted in cotton for a crop year may obtain such waiver by destroying all living cotton plants, to the satisfaction of the Boll Weevil Commission, on any such acre prior to July 15 of the crop year for which the assessment is due. All acres on which cotton is destroyed for purposes of obtaining a waiver of the assessment shall remain void of all living cotton plants through December 31 of the same year. Any cotton producer who fails to destroy and maintain such destruction of living cotton plants to the satisfaction of the Boll Weevil Commission shall be liable for the assessment for that crop year.

5. The Commission has the authority to inspect any cotton field in which a cotton producer has claimed to have destroyed their cotton crop. Failure of the cotton producer to allow inspection shall be a violation of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), amended LR 25:

All interested persons may submit written comments on the proposed amendments by the end of business on February 25, 1999 to the Louisiana Department of Agriculture and Forestry and the Louisiana Boll Weevil Eradication Commission at 5825 Florida Boulevard, Baton Rouge, Louisiana 70806.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Boll Weevil Eradication

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no additional costs or savings to State or Local Governmental Units. The amendment provides clarification to existing rules concerning assessments due on certified cotton acres. Boll Weevil Eradication Assessments will not be due on those acres of cotton that are destroyed prior to Final Certification. However, if any living cotton plants remain on these acres, then boll weevil eradication operations must continue to ensure the integrity of the Boll Weevil Eradication Program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no effect on revenue collections of state or local governmental units. This rule change requires that cotton growers must fully destroy (no living cotton plants remaining) any cotton acres that are not certified with the Farm Service Agency prior to Final Certification Date (July 15). If the above criteria is not met, the grower will be liable for Boll Weevil Eradication Assessments on these acres.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or benefits to directly affected persons or non-governmental groups. This rule change will affect any cotton grower in either the Red River Eradication Zone or the Louisiana Eradication Zone who destroys cotton prior to Final Certification (July 15). There will be no increase in cost or workload to the growers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Skip R. Rhorer
Assistant Commissioner
9901#027

Robert Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Lobbyist Disclosure Act
(LAC 52:I.1901-1905)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to promulgate amendments and changes to the Rules for the Board of Ethics regarding the administration and enforcement of the provisions of the Lobbyist Disclosure Act as authorized by Louisiana Revised Statute 42:1132D.

No preamble to the proposed rule changes has been prepared.

**Title 52
ETHICS**

Part I. Board of Ethics

Chapter 19. Lobbyist Disclosure Act

§1901. In General

The Lobbyist Disclosure Act provides that the Board of Ethics shall administer and enforce the provision of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

§1902. Filing Fees

A. A fee of \$10 shall be remitted to the board with each registration or supplemental registration required to be filed by a lobbyist.

B. All fees paid in compliance with this Chapter shall be by check or money order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

§1903. Registration and Reporting; Forms

A. The staff shall prepare and provide upon request, forms for the registration and reporting of lobbyists. The forms may be provided on paper or in electronic format.

B. No registration or report filed by a lobbyist will be dated and filed with the board unless the registration or report is on the proper form as provided by the staff.

C. The method of signature and notarization shall be as provided in §1803.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

§1904. Registration and Reporting; Dating, Numbering and Filing

The staff shall establish a procedure for the dating, indexing, and filing of all Lobbyist registration and Lobbyist Disclosure reports received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

§1905. Automatic Termination of Registration for Failure to Renew; Retroactivity

If a registered lobbyist fails to renew his registration by January 31 of the applicable year, then his registration shall be terminated retroactively as of December 31 of the previous year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

Interested persons may direct their comments to R. Gray Sexton, Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, telephone (225) 922-1400, until February 9, 1999.

If necessary, a public hearing will be held by the Board of Ethics at 8401 United Plaza Boulevard, Baton Rouge,

Louisiana, 70809-7017 between February 24, 1999 and March 1, 1999.

R. Gray Sexton
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Lobbyist Disclosure Act**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the amendments to the Rules for the Board of Ethics will increase expenditures by \$140 for publishing the rules in the *Louisiana Register*. The costs will be absorbed in the Board's existing budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The amendments to the Rules for the Board of Ethics are not expected to have any additional fiscal impact on revenue collections of state and local government units. A \$10 registration and/or renewal fee is currently assessed for each form filed. This is expected to generate \$10,000 in revenues for FY 98-99 which are used to administer this activity.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs nor economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Maris L. McCrory

Deputy General Counsel
9901#053

Robert E. Hosse

General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of the Secretary
Division of Economically Disadvantaged
Business Development**

Economically Disadvantaged Business Development
Program—Eligibility Requirements and Mentor Protégé
(LAC 19:II.107, 501-515)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, hereby proposes for the following amendments to its rules relative to the Economically Disadvantaged Business Development Program.

Title 19

**CORPORATIONS AND BUSINESS
Part II. Economically Disadvantaged
Business Development Program**

Chapter I. General Provisions

§107. Eligibility Requirements for Certification

A. - B. ...

1. - 2. ...

3. Net Worth. Each individual owner's net worth may not exceed \$200,000. The market value of individual owner's personal residence will be excluded from the networth calculation.

4. ...

C.1 - 6. ...

7. Diminished Capital and Credit

a. A firm will be considered to have diminished capital and credit if its ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to other firms in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such firm from successfully competing in the open market. Examples of diminished capital and credit are lack of access to long-term financing or credit, working capital financing, equipment trade credit, raw materials, supplier trade credit, and bonding. The applicant must furnish documentation that credit was denied. An applicant firm that scores poorly on all financial measurements published by the Robert Morris Associates for liquidity, leverage, operating efficiency, and profitability is considered to be economically disadvantaged. Factors to be considered are:

7.a.i. - iv. ...

7.b. - D.6 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1751,1752, and 1754.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), LR 25:

Chapter 5. Mentor-Protégé Program

§501. General Policy

A. The policy of the State is to implement a Mentor/Protégé program that breaks down barriers and builds capacity of economically disadvantaged businesses, through internal and external practices which include:

Accountability—responsibility of each cabinet member and policy administrator to produce self-imposed and specific outcomes within a specified period of time;

Capacity Building—enhancing the capability of economically disadvantaged businesses to compete for public and private sector contracting and purchasing opportunities;

Continuous Improvement—approach to improving the performance of the Mentor/protégé operation which promotes frequent, regular and possible small incremental improvement steps on an ongoing basis;

Education—sharing instruction on intent, purpose, scope and procedures of the Mentor/Protégé program with both government personnel at all levels of administration as well as the business community and the general citizenry;

Flexibility—promoting relationships based on need, relative strengths, capability and agreement of the parties within the boundaries of the program objectives of inclusion, impartiality and mutual understanding;

Monitoring—requiring the routine measurement and reporting of important indicators of (or related to) outcome oriented results which stems from the continuing quest for accountability of Louisiana State government;

Partnering—teaming of Economically Disadvantaged Businesses with businesses who have the capability of providing managerial and technical skills, transfer of competence, competitive position and shared opportunity toward the creation of a mutually beneficial relationship with advantages which accrue to all parties;

Reporting—informing the Governor's office of self-imposed outcomes via written and quarterly reports as to the progress of intra-departmental efforts by having the secretary of the department and her/his subordinates assist in the accomplishment of the initiative keep records, and coordinate and link with representatives of the Department of Commerce; and

Tone Setting—intense and deliberate reinforcement by the Governor's office of the State's provision for substantial inclusion of economically disadvantaged businesses in all aspects of purchasing, procurement and contracting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), LR 25:

§503. Incentives for Mentor Participation

A. Businesses participating as Mentors in the Mentor/Protégé Program will be motivated for program participation via program features incorporated in the bid process as well as contracts and or purchase agreements negotiated with the firm. The following features will be instituted by the State of Louisiana to motivate Mentor participation:

1. Preferential Contract Award. The State of Louisiana will institute a system for awarding points to Mentor participants which will confer advantages in the bid or selection process for contracting or purchasing. The evaluation points granted a Mentor/Protégé Program participant will be proportionate to the amount of protégé participation in the project. Evaluation points will be weighted with the same standards as points awarded for quality for product or service; or

2. Performance Bonus. Contracts for goods or services will include a factor for evaluation of performance for the purpose of providing bonuses for work performed or deliveries completed ahead of schedule or consistently on schedule. The bonus for contractors and suppliers who are Mentor/Protégé Program participants will be 5 percent greater than bonuses awarded to firms who are not program participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 25:

§505. Incentives for Protégé Participation

A. Businesses participating as protégés will be eligible for the following program benefits:

1. Subcontracting Opportunities. Protégé firms may be eligible for non-competitive subcontracting opportunities with the state and private sector industries;

2. Technical and Developmental Assistance. Protégé

firms will be provided technical and developmental assistance provided by Mentors which is expected to build the capacity of the protégé firm to compete successfully for public and private sector opportunities;

3. **Networking.** The Department of Economic Development will institute a system of networking protégé firms with potential mentors for the purposes of facilitating successful Mentor/Protégé partnerships. EDB firms participating in the program will be included in the Department of Economic Development's protégé source guide, which lists the firm and its capabilities as a sources of information for mentors in the program. Additionally, networking seminars for the purposes of introducing potential mentors and protégé will be held annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 25:

§507. Guidelines for Participation

A. The Mentor/Protégé Program will be open to participation by any business entity which meets the criteria for participation as outlined below.

1. **Mentor Firms:**

- a. must be capable of contracting with the state;
- b. must demonstrate their capability to provide managerial or technical skills transfer or capacity building; and
- c. must remain in the program for the period of the developmental assistance as defined in the Mentor/Protégé plan.

2. **Protégé Firms:**

- a. must be a certified Economically Disadvantaged Business with the State of Louisiana Department of Economic Development;
- b. must be eligible for receipt of government and private contracts;
- c. must graduate from the program within a period not to exceed 7 years or until the firm reaches the threshold of \$750,000.00 net worth as defined by the EDB certification guidelines.

3. **Mentor/Protégé Plan**

a. A Mentor/Protégé Plan signed by the respective firms shall be submitted to the Department of Economic Development, Division of Economically Disadvantaged Business Development for approval. The plan shall contain a description of the developmental assistance that is mutually agreed upon and in the best developmental interest of the Protégé firm.

b. The Mentor/Protégé plan shall also include information on the mentor's ability to provide developmental assistance, schedule for providing such assistance, and criteria for evaluating the Protégé's developmental success. The Plan shall include termination provisions complying with Notice and due process rights of both parties and a statement agreeing to submit periodic report reviews and cooperate in any studies or surveys as may be required by the Department in order to determine the extent of compliance with the terms of the agreement.

c. The submitted Mentor/Protégé Agreement shall be

reviewed by an Economic Development Small Business Advisor. The Small Business Advisor may recommend to the Executive Director of the Division of Economically Disadvantaged Business Development acceptance of the submitted Agreement if the Agreement is in compliance with the Division's Mentor/Protégé guidelines.

4. **Protégé Selection.** Selection of the protégé is the responsibility and at the discretion of the mentor. Protégés may be selected from the listing of EDB's provided by the Department of Economic Development, Division of Economically Disadvantaged Businesses. A protégé selected from another source or reference must be referred to the Department of Economic Development for certification as an EDB. The protégé must meet the Department's guidelines for EDB certification as a condition of the Mentor/Protégé Plan acceptance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 25:

§509. Measurement of Program Success

A. The overall success of the Mentor/Protégé program will be measured by the extent to which it results in:

1. an increase in the Protégé firm's technical and business capability, industrial competitiveness, client base expansion and improved financial stability;
2. an increase in the number and value of contracts, subcontracts and supplier agreements by economically disadvantaged businesses; and
3. the overall enhancement and development of Protégé firms as a competitive contractor, subcontractor, or supplier to local, state, federal agencies or commercial markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 25:

§511. Internal Controls

A. The Division of Economically Disadvantaged Business Development will manage the program and establish internal controls to achieve the stated program objectives. Controls will include:

1. reviewing and evaluating Mentor/Protégé agreements for goals and objective;
2. reviewing semi-annual progress reports submitted by mentors and proteges on Protégé development to measure Protégé progress against the approved agreement;
3. requesting and reviewing periodic reports and any studies or surveys as may be required by the Division to determine program effectiveness and impact on the growth, stability and competitive position of Economically Disadvantaged Businesses in the State of Louisiana; and
4. continuous improvement of the program via ongoing and systematic research and development of program features, guidelines and operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 25:

§513. Non-Performance

A. The Mentor/Protégé Agreement is considered a binding agreement between the parties and the State. Mentors who compete for contract award or purchasing activity and receive evaluation points as program participants are bound, in accordance with the terms of the State contract or purchase order, to fulfill the responsibilities outlined in the approved Mentor/Protégé Agreement as a condition of successful contracting or purchase activity. Protégés who are selected for program participation are bound, in accordance with the terms of their Agreement with the Department of Economic Development for continued participation in the program. Failure of the parties to meet the terms of the agreement are considered a violation of contract with liabilities as outlined below:

- 1. failure of the Mentor to meet the terms of the Mentor/Protégé Agreement will be considered a default of State contract or purchasing agreement; and
- 3. failure of the Protégé to meet the terms of the Mentor/Protégé Agreement will result in exclusion from future participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 25:

§515. Conflict Resolution

The State will institute a system for independent arbitration for the resolution of conflicts between mentors and protégés as program participants and/or between program participants and the State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 25:

Copies of the draft of these rules are available from the Division of Economically Disadvantaged Business Development office and may be obtained through telephone request by calling (225) 342 - 5373 or by written request to 339 Florida Blvd., Suite 212, Baton Rouge, LA 70804.

All interested persons are invited to submit written comments on the proposed amendments to the rules and regulations. Such comments should be submitted to no later than 5 p.m. on February 26, 1999, to Henry J. Stamper, Executive Director, Division of Economically Disadvantaged Business Development, P.O. Box 44153, Baton Rouge, LA 70804 - 4153 or to 339 Florida, Suite 212, Baton Rouge, LA 70804.

Henry J. Stamper
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Economically Disadvantaged Business
Development Program—Eligibility Requirements
and Mentor Protégé**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no additional cost to the state in the implementation of the proposed amendments to the rules of the

Economically Disadvantaged Business Development program. The workload or additional paperwork will be shared by the current professional staff, that consist of the Executive Director, the Deputy Assistant Secretary, and five small business advisors. The cost will be absorbed within the present budget allocation.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state and local governmental units.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Economically Disadvantaged Businesses will be the direct beneficiaries of the mentor/protégé program, which will provide managerial and technical assistance to the protégé firms. The mentor firms will also benefit to the extent that resourceful vendors will be produced through the process.

The mentor/protégé relationship will likely increase EDB firms' revenue by providing subcontracting opportunities. However, no historical data exist to estimate the impact and no method is available to make a reliable projection until the program develops a track record.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The enhanced abilities of EDB firms will likely increase competition and employment in the Louisiana economy. No data exist to estimate the impact or to make a reliable projection until experiential data have been collected.

Henry J. Stamper
Executive Director
9901#031

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Louisiana School and District Accountability System (LAC 28:I.901)

In accordance with R.S. 49-950 et seq., the Administrative Procedures Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, 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 proposed amendment adds the Louisiana School and District Accountability system as a part of Bulletin 741.

**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. 17:1541.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR

The Louisiana School and District Accountability System

2.006.00 Every school shall participate in a school accountability system based on student achievement as approved by the State Board of Elementary and Secondary Education.

Refer to R.S. 17:10.1

Indicators for School Performance Scores

2.006.01 A School Performance Score shall be determined using a weighted composite index derived from three or four indicators: criterion-referenced tests, norm-referenced tests, and student attendance for grades K-12, and dropout rates for grades 7 - 12.

Louisiana's 10- and 20-Year Education Goals

2.006.02 Each school shall be expected to reach 10- and 20-year goals that depict minimum educational performances.

INDICATORS	GRADES ADMINISTERED	10-YEAR GOAL	20-YEAR GOAL
CRT- LEAP Tests (60 percent K-12)	Grades 4, 8, 10, 11	Average student score at BASIC	Average student score at PROFICIENT
NRT - Iowa Tests (30 percent K-12)	Grades 3, 5, 6, 7, 9	Average composite standard score corresponding to the 55 th percentile rank in the tested grade level	Average composite standard score corresponding to the 75 th percentile rank in the tested grade level
Attendance (10 percent, K-6; 5 percent, 7--12)		95 percent (grades K-8) 93 percent (grades 9-12)	98 percent (grades K-8) 96 percent (grades 9-12)
Dropout Rate (5 percent, 7-12)		4 percent (grades 7-8) 8 percent (grades 9-12)	2 percent (grades 7-8) 4 percent (grades 9-12)

School Performance Scores

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0 to 100 and beyond, with a score of 100 indicating a school has reached the 10-year Goal and a score of 150 indicating a school has reached the 20-year Goal. The lowest score that a

given school can receive for each individual indicator index and/or for the SPS as a whole is "0".

Every year of student data shall be used as part of a school's SPS. The initial school's SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates. Subsequent calculations of the SPS shall use the most recent two years' test data and prior two years' attendance and dropout rates.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8 and in Spring 2001 for Grades 9-12.

Formula for Calculating an SPS

The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	NA	0%	0
			SPS = 67.1

A school with an SPS of 30 or below shall be identified as an Academically Unacceptable School. This school immediately enters Corrective Action.

Criterion-Referenced Tests (CRT) Index Calculations

A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels will receive the number of points indicated.

Advanced =	200 points
Proficient =	150 points
Basic =	100 points
Approaching Basic =	50 points
Unsatisfactory =	0 points

Formula for Calculating a CRT Index for a School

- Calculate the total number of points by multiplying the number of students at each performance level times the points for those respective performance levels, for all content areas.
- Divide by the total number of students eligible to be tested times the number of content area tests.

Initial Transition Years

In order to accommodate the phase-in of Social Studies and Science tests, the following CRT scores shall be used for each year:

1999 Baseline CRT Score =	1999 Math and 1999 English Language Arts (Grades 4 and 8)
2001 Comparison CRT Score =	2000 and 2001 Math and 2000 and 2001 English Arts (both years averaged for each subject and each grade)
2001 <i>New</i> Baseline CRT Score =	2000 and 2001 Math and 2000 and 2001 English and 2000 and 2001 Social Studies and 2000 and 2001 Science (both years averaged for each subject and each grade)
2003 Comparison CRT Score =	2002 and 2003 Math and 2002 and 2003 English 2002 and 2003 Social Studies and 2002 and 2003 Science (both years averaged for each subject and each grade)
This re-averaging will result in a re-calculated baseline to include science and social studies for K-8 schools in 2001. A similar schedule will be used for 9-12 schools to begin with a 2001 baseline year.	

Norm-Referenced Tests (NRT) Index Calculations						
For the NRT Index, standard scores supplied by Iowa Test of Basic Skills reflecting current norms shall be used for computing the SPS. Index scores for each student will be calculated, scores totaled, and then averaged together to get a school's NRT Index score.						
<i>NRT Goals and Equivalent Standard Scores</i>						
Iowa Tests Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year Goals, by Grade Level *						
				Grade		
Goals	Percentile Rank	3	5	6	7	9
10-year Goal	55 th	189	220	232	245	266
20-year Goal	75 th	201	237	253	268	290
*Source of percentile rank-to-standard score conversion: <i>Iowa Test of Basic Skills, Norms and Score Conversions, Form M (1996) and Iowa Test of Educational Development, Norms and Score Conversions, with Technical Information, Form M (1996), Chicago Il: Riverside Publishing Company</i>						

NRT Formulas Relating Standard Scores to NRT Index	
Where the 10-year and 20-year goals are the 55 th and 75 th percentile ranks respectively and where SS = the average standard score, the following formulas use the current ITBS standard scores. As each ITBS is renormed, the standard scores for SPS calculations shall change accordingly.	
Grade 3	Index 3rd grade = (4.167 * SS) / 687.5 SS = (Index 3 rd grade + 687.5) / 4.167
Grade 5	Index 5 th grade = (2.941 * SS) / 547.1 SS = (Index 5 th grade + 547.1) / 2.941
Grade 6	Index 6 th grade = (2.381 * SS) / 452.4 SS = (Index 6 th grade + 452.4) / 2.381
Grade 7	Index 7 th grade = (2.174 * SS) / 432.6 SS = (Index 7 th grade + 432.6) / 2.174
Grade 9	Index 9 th grade = (2.083 * SS) / 454.2 SS = (Index 9 th grade + 454.2) / 2.083

Formula for Calculating a School's NRT Index for Multiple Grades
1. Calculate the index for each grade, using the grade-appropriate formula relating standard score to NRT index.
2. Average the grade indices across all students in all grades in the school.

Attendance Index Calculations		
An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indices shall be calculated using the prior two years' average attendance rates as compared to the state goals.		
Attendance Goals		
	10-Year Goal	20-Year Goal
Grades K-8	95 percent	98 percent
Grades 9-12	93 percent	96 percent

Attendance Index Formulas
Grades K-8 Indicator (ATT K-8) = (16.667 * ATT) ? 1483.3
Grades 9-12 Indicator (ATT 9-12) = (16.667 * ATT) ? 1450.0
Where ATT is the attendance percentage, using the definition of attendance established by the Department of Education
Lowest Attendance Index Score
Zero shall be the lowest Attendance Index score for accountability calculations.

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. This school shall continue to meet or exceed Growth Targets in order to obtain "positive" growth labels, recognition, and possible rewards. This school shall not receive "negative" growth labels, i.e., School in Decline and Minimal Academic Growth.

Rewards/Recognition

2.006.08 A school shall receive recognition and possible monetary awards when it meets or surpasses its Growth Targets and when it shows growth in the performance of students who are classified as high poverty.

School personnel shall decide how any monetary awards will be spent; however, possible monetary rewards shall not be used for salary or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its Growth Targets.

Corrective Actions

2.006.09 A school that does not meet its Growth Target shall enter into Corrective Actions. A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

Corrective Actions Level I: Working with District Assistance Teams, a school shall utilize a state diagnostic process to identify school needs, redevelop school improvement plans, and examine the use of school resources.

Corrective Actions Level II: A highly trained Distinguished Educator (DE) shall be assigned to a school by the state. The DE shall work in an advisory capacity to help the school improve student performance. The DE shall make a public report to the school board of recommendations for school improvement. Districts shall then publicly respond to these recommendations. If a school is labeled as Academically Unacceptable, parents shall have the right to transfer their child to a higher performing public school. (See Transfer Policy Standard Number 2.006.10.)

Correction Actions Level III: The DE will continue to serve the school in an advisory capacity. Parents shall have the right to transfer their child to a higher performing public school. (See Transfer Policy, Standard Number 2.006.10) A district must develop a Reconstitution Plan for the school at the beginning of the first year in this level and submit the plan to SBESE for approval.

If a Corrective Actions Level III school has grown at least 40 percent of its Growth Target or 5 points, whichever is greater, during its first year, then that school may proceed to a second year in Level III. If such minimum growth is not achieved during the first year of Level III, but SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, it shall lose state approval and all state funds.

Any reconstituted School's SPS and Growth Target shall be recalculated utilizing data from the end of its previous year. SBESE will monitor the implementation of the Reconstitution Plan.

A school INITIALLY ENTERS Corrective Actions Level I if it has an SPS of 30 or less or if it has an SPS of less than 100 and fails to reach its Growth Target.

A school MOVES INTO A MORE INTENSIVE LEVEL of Corrective Actions when adequate growth is not demonstrated during each 2-year cycle.

A school with an SPS of 30 or less (i.e., Academically Unacceptable School) shall move to the next level of Corrective Actions as long as its score is 30 or less.

A school with an SPS of 30.1 to 50.0 shall move to the next level of Corrective Actions if it grows fewer than 5 points. If it grows 5 points or more each cycle, but less than its Growth Target, a school may remain in Corrective Actions Level I for two cycles and Corrective Actions Level II for one cycle.

A school with an SPS of 50.1 to 99.9 shall remain in Corrective Actions Level I as long as its growth is at least its Growth Target minus 5 points, but not less than 0.1 points. During the first 10-year cycle, there is no maximum number of cycles that such a school can stay in Level I as long as this minimum growth is shown each cycle.

A school EXITS Corrective Actions if its School Performance Score is above 30 and the school achieves its Growth Target.

Corrective Actions Summary Chart

	Level I	Level II	Level III	Reconstitution or No State Approval/Funding
School Level Tasks	Utilize state diagnostic process to identify needs Develop/implement consolidated improvement plan including an integrated budget; process must include: a) opportunities for significant parent and community involvement; b) public hearings; c) at least two-thirds teacher approval	Work with advisory Distinguished Educators, teachers, parents, and others to implement revised School Improvement Plan Distinguished Educators help principals develop capacity to change	1) Distinguished Educator continues to assist with improvement efforts.	If Reconstitution Plan approved by SBESE: a) implement Reconstitution Plan and b) utilize data from the end of the previous year to recalculate school performance goals and Growth Targets. If Reconstitution Plan not approved, no state approval/no state funding
District Level Tasks	Create District Assistance Teams to assist schools Publicly identify existing and additional assistance being provided by districts (such as funding, policy changes, greater flexibility) As allowed by law, local boards reassign or remove school personnel as necessary For Academically Unacceptable Schools only-ensure schools receive at least their proportional share of applicable state, local, and federal funding.	District Assistance Teams continue to help schools Hold public hearing and respond to Distinguished Educators' written recommendations As allowed by law, local boards reassign or remove personnel as necessary For Academically Unacceptable Schools only-authorize parents to send their children to other public schools	District Assistance Teams will continue to help schools Authorize parents to send their children to other public schools At end of year one, one of the following must occur: a) schools make adequate growth (at least 40 percent of target or 5 points, whichever is greater); b) Reconstitution Plan approved by SBESE; c) non-school approval status from SBESE	If Reconstitution Plan approved by SBESE, provide implementation support. If Reconstitution Plan not approved, no state approval/no state funding.

Reconstitution Plan

2.006.10 Districts shall develop and submit a Reconstitution Plan to SBESE for approval for any school in Correction Actions Level III during the first year in that level. This Reconstitution Plan indicates how the district shall remedy the school's inadequate growth in student performance. The plan shall specify how and what reorganization shall occur and how/why these proposed changes shall lead to improved student performance.

If a Corrective Actions Level III school has grown at least 40 percent of its Growth Target or 5 points, whichever is greater, during its first year, then that school may continue another year in Level III. If such minimum growth is not achieved during the first year, but SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, it shall lose state approval and all state funds.

For example, districts may choose to vacate a school and establish specific criteria for the rehiring of existing staff and/or the hiring of new staff.

Transfer Policy

2.006.11 Parents shall have the right to transfer their child to another public school when an Academically Unacceptable School begins Correction Actions Level II or any other school begins Correction Actions Level III.

Transfers shall not be made to Academically Unacceptable Schools undergoing Corrective Actions Level II or Level III.

Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student membership count.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, if a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

Additional Resources

2.006.12 The State Department of Education shall provide support to the school through one or more of the following: District Assistance Teams, Distinguished Educators (DEs), a School Improvement Fund, and a Best Practices Resource Guide.

State, regional, and local personnel, as appropriate, shall be trained to become members of District Assistance Teams.

A DE shall be a highly effective educator selected and trained by the State Department of Education to take two or more years of leaves-of-absence to advise and assist a school in Corrective Actions Level II and Level III.

A DE's responsibilities may include assisting a school in the development of improvement plans, facilitating the development of a school curriculum that aligns with state content standards, working with the school to involve parents and community members, and assisting with the professional development of school personnel.

The selection of outstanding teachers, principals, and administrators to serve as a DE shall be based upon the assumption that these educators will possess an authentic understanding of problems faced by the schools and possess a capacity to engage in solutions to these problems. Additionally, a DE shall be allowed to return to his/her district/university with special capabilities that would be of value to those schools and districts.

The State Department of Education shall identify Best School Improvement Practices and disseminate the information to schools and districts through a published report.

Progress Report

2.006.13 The SBESE shall report annually on the state's progress in reaching its 10- and 20-Year Goals. The State Department of Education shall publish an individual School Report Card to provide information on every school's performance. The School Report Card shall include the following information: School Performance Scores, school progress in reaching Growth Targets, school performance when compared to similar (like) schools, and subgroup performances.

Appeals Procedures

2.006.14 The State Department of Education shall define "appeal," what part of the State Accountability System may be appealed, and the process that the appeal will take.

Student Mobility

2.006.15 As a general rule, the test score of every eligible student who takes a test at a given school shall be included in that school's performance score regardless of how long that

student has been enrolled in that school. A school that has at least 10 percent of its students transferring from outside the district and enrolled in the school after October 1 may request that the State Department of Education calculate what its SPS would have been if such out-of-district enrollees had not been included. If there is at least a 5-point difference between the two School Performance Scores, then the school may appeal any negative accountability action taken by the state (e.g., movement into Corrective Actions, application of growth labels).

Pairing/Sharing of Schools with Insufficient Test Data

2.006.16 In order to receive an SPS, a given school must have at least one grade level of LEAP 21 testing and at least one grade level of Iowa testing. A school that does not meet this requirement must either be "paired or shared" with another school in the district as described below. For the purposes of the State Accountability System, such a school shall be defined as a "non-standard school."

A school with a grade-level configuration preventing it from participating in LEAP 21 or the Iowa Tests (e.g., a K, K-1, K-2 school) must be "paired" with another school that has at least one grade level of LEAP 21 testing and one grade level of Iowa testing. This "pairing" means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

A school with a grade-level configuration that contains only one grade level where students participate in LEAP 21 or Iowa testing (e.g., a K-3, 5-6 school) must "share" with another school that has at least one grade level of the type of testing missing. Both schools shall "share" the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS will be calculated by using the school's own attendance, dropout, and testing data AND the test scores for just one grade from the other school.

A district must identify the school where each of its non-standard schools shall be either "paired or shared." The "paired or shared" school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the "paired or shared" school must be the school into which the largest percentage of students "feed." If two schools receive an identical percentage of students from a non-standard school, the district shall select the "paired or shared" school.

Once the identification of "paired or shared" schools has been made, this decision is binding for 10 years. An appeal to SBESE may be made to change this decision prior to the end of 10 years only if a re-districting or other significant attendance change occurs.

New Schools and/or Significantly Reconfigured Schools

2.006.17 For a newly formed school, the school district may petition SBESE, following existing procedures, to have a new site code assigned to that school. Once the site code is

assigned, the school shall receive its initial baseline SPS the summer following its second year of operation, since it will need two years of testing data and one year of attendance and/or dropout data.

The district may also petition SBESE for a new SPS for a school with significant reconfiguration from the previous year, where such significant reconfiguration varies at least 50 percent from the previous year's grade structure and/or size. For example, a K-4 school changes to a K-8 school, or a given school's population decreases in half or doubles in size from one year to the next. If SBESE grants a new SPS and agrees that this is a significant reconfiguration, this school would receive a new baseline SPS during the summer following its second year of operation under the new site code.

A school that has population and/or grade configuration change from the previous year of less than 50 percent, but more than 25 percent, is not eligible for a new SPS. Instead, such school may appeal any state accountability decisions made as a result of not meeting its Growth Targets (e.g., movement into Corrective Actions, applying of growth labels, receiving rewards).

Inclusion of Alternative Education Students

2.006.18 Each superintendent, in conjunction with the alternative school director, shall choose from one of two options for including alternative education students in the State Accountability System for EACH of the system's alternative education schools:

Option I - The score for EVERY alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's SPS. The alternative school itself shall receive a "diagnostic" SPS (not to be used for rewards or Corrective Actions) if a statistically valid number of students were enrolled in the school at the time of testing.

Option II - The score for EVERY alternative education student shall remain at the alternative school. The alternative school shall be given its own SPS and Growth Target, which makes the alternative school eligible for rewards and Corrective Actions.

In order to be eligible for Option II, an alternative school shall meet ALL of the following requirements.

The alternative school must have its own site code and operate as a school.

The alternative school must have a statistically significant number of students in the tested grade levels. The definition of "statistically significant" is to be determined.

Fifty percent (50 percent) of the total school population must have been enrolled in the school for the entire school year (October 1-May 1).

Once an option is selected for an alternative school, it shall remain in that option for at least 10 years. An appeal to SBESE may be made to change the option status prior to the end of 10 years if a school's purpose and/or student eligibility changes.

An alternative school that chooses Option II shall receive an initial baseline SPS during summer of 1999 if the majority of its students are in grades K-8. If the majority of its students are in grades 9-12, an alternative school shall receive its baseline SPS during the summer of 2001.

All students pursuing a regular high school diploma (working in curriculum developed from Louisiana Content Standards) shall be included in the state-testing program, with those scores included in an SPS.

Students 16 years of age and older who are enrolled in a Pre-GED program (not pursuing a regular high school diploma), shall not be included in the state-testing program nor in an SPS. Information on these students (e.g. number receiving a G.E.D.) shall be reported in the school's report card as a sub-report.

An alternative school in Corrective Actions II may request some flexibility in obtaining assistance from either a Distinguished Educator (DE) or a team designed to address the needs of the special alternative school population, as long as the total costs for the team do not exceed that for the DE. Sample team members could include the following: social workers, psychologists, educational diagnosticians, and counselors, etc.

Inclusion of Lab Schools and Charter Schools

Such schools shall be included in the State Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are that Lab Schools and Type 1, 2, and 3 Charter Schools are "independent" schools and cannot be "paired" or "shared" with another school if they don't have at least one CRT and one NRT grade level, and/or there is no "home-based" district school to which a given student's scores can be returned if all three conditions for Option II cannot be met. Therefore, if they do not have the required grade levels and/or statistically significant number of students, such schools cannot receive an SPS. Instead, the state shall publish the results from pre- and post-test student achievement results, as well as other relevant accountability data, as part of that school's report card. This policy is to be revisited during the year 2001.

For the 1999-2000 academic school year, detention and Department of Corrections facilities will NOT receive an SPS. The future inclusion of either set of facilities requires further study and any decisions should be deferred for another year.

Inclusion of Students with Disabilities

2006.19 All students, including those with disabilities, will participate in Louisiana's new testing program. Most students with disabilities, approximately 80 percent, will take the LEAP 21 and the Iowa Test with accommodations, if required by their Individualized Education Plan, IEP. A small percentage of students, approximately 20 percent, with very significant disabilities will take an alternate assessment, as required by their IEP. The scores of all students who are eligible to take the LEAP 21 and the Iowa Tests will be included in the calculation of the SPS.

During the summer of 1999 for K-8 schools and summer of 2001 for 9-12 schools, each school shall receive two School Performance Scores as follows:

a score including only regular education students (including gifted, talented, speech- or language-impaired only, and 504 students).

a score including regular education students AND students with disabilities (only those students with disabilities participating in LEAP 21 and the Iowa Tests).

Within the State Accountability System, the terms "students with disabilities" or "special education students" shall not include gifted, talented, speech- or language-impaired only, or 504 students. "Regular education" students, therefore, include all regular education, gifted, talented speech- or language-impaired only, and 504 students.

For all other purposes, including establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. However, with the acknowledgment that the percentage of students with disabilities among schools varies significantly and that the rate of growth for such students, when compared to regular education students, may be different, two weighted factors shall be used within the calculation of each school's Growth Target:

the percentage of students with disabilities at that school eligible to participate in LEAP 21 and the Iowa Tests as compared to the *percentage of regular education students* eligible to participate in LEAP 21 and the Iowa Tests; and

the number of accountability cycles required for students with disabilities to master the same content as compared to the *number of accountability cycles required for students without disabilities*.

During the first ten years, a school's Growth Target will be calculated as follows:

$[\text{Prop RE} * (100 - \text{SPS}) / N] + [\text{Prop SE} * (100 - \text{SPS}) / 2N]$ or 5 points, *whichever is greater*

where Prop RE = the proportion of regular education students in the school (including gifted, talented speech- and language-impaired only, and students);

SPS = School Performance Score

N = Number of remaining accountability cycles

Prop SE = the proportion of special education students eligible to participate in LEAP 21 and the Iowa Tests

During the second ten years, the formula is:

$[\text{PropRE} * (150 - \text{SPS}) / N] + [\text{PropSE} * (150 - \text{SPS}) / 2N]$, or 5 points, *whichever is greater*

Interested persons may submit written comments until 4:30 p.m., March 10, 1999, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Louisiana Handbook for School Administrators—Louisiana School and District Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation costs to state governmental units will be \$12,240,682 (See Department of Education Budget Spread). Local school systems may also incur additional costs for the following items: costs not funded by the state for teacher staff development and inservice training, collection and analysis of data for the state's diagnostic process, personnel assigned to the District Assistance Teams, development and implementation of consolidated improvement plans, and transportation costs for students who choose to attend another school within the district as part of Corrective Actions Level II or Level III.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The School and District Accountability System is based on the concept of continuous growth: every school can improve and is expected to show academic growth. Economic benefits may be realized as K-12 students acquire knowledge and skills to become more productive citizens in the workforce. Parents who choose to send their children to a school in another district as part of Corrective Actions Level II or III may incur additional transportation costs for such students since the policy specifies that such transportation costs are the responsibility of parents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

More rigorous academic standards and higher student performance may improve school districts' ability to recruit and retain qualified teachers. School districts may have to improve compensation and/or working conditions to recruit qualified teachers if the diagnostic process concludes that poor teacher quality is negatively affecting student performance. School districts will need to hire qualified replacements for personnel who take temporary positions as Distinguished Educators. Schools in Corrective Actions may find it difficult to recruit and retain qualified teachers. School districts may have to improve

teacher compensation and/or working conditions to recruit and retain qualified teachers for such schools.

Marlyn Langley
Deputy Superintendent
Management and Finance
9901#079

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Minimum Time Requirements (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, 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 proposed rule changes require implementation timelines for LEA’s to adopt and implement local curricula for grades K-12, which align with state content standards; require teachers of state required subjects to provide instruction that includes those skills and competencies designated by their local curricula which are based upon state content standards; require that teacher planning for content, classroom instruction, and local assessment reflect the use of local curricula and state content standards; and, eliminate the requirement that state performance standards in individual courses and grade levels be established.

**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—Louisiana Handbook for School Administrators

* * *

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November, 1975), amended LR 25:

1.087.02 The school system shall adopt and implement local curricula which align with state content standards according to the following timelines:

Grade Level	Content Area	Implementation Timeline
K-8	English Language Arts Math	1998-1999
K-8	Science Social Studies	1999-2000

9-12	English Language Arts Math Science Social Studies	1999-2000
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As standards are approved in content areas not mentioned above, each school system shall adopt a schedule for the implementation of curricula aligned with those standards.

2.087.02 Each teacher of state-required subjects shall provide instruction that includes those skills and competencies designated by local curricula which are based upon state content standards.

2.087.03 Planning by teachers for content, classroom instruction, and local assessment shall reflect the use of local curricula and state content standards.

Interested persons may submit written comments until 4:30 p.m., March 10, 1999, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Minimum Time Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the Louisiana Register is approximately \$60.

The implementation of changes required in the regulations may impact local governmental units in the cost incurred to convene educators to develop curricula, to print documents, or to provide professional development relating to the implementation of the new curricula. This cost will vary significantly among systems depending upon the methods determined to develop and/or implement curricula; therefore, a single estimate of cost would not be appropriate.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is 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 effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9901#080

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Student Financial Assistance Commission Bylaws
(LAC 28:V.113)

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021 et seq., in compliance with R.S. 49:952 of the Administrative Procedure Act, hereby announces its intention to revise its governing bylaws, as follows:

Title 28

EDUCATION

**Part V. Student Financial Assistance—Higher
Education Loan Program**

**Chapter 1. Student Financial Assistance Commission
Bylaws**

**§113. Rights, Duties and Responsibilities of the
Executive Staff of the Commission**

A. - F. ...

G. Recording Secretary. The executive director shall appoint a recording secretary whose duties shall include giving or causing to be given notice of all meetings of the commission and its committees as required by the Administrative Procedures Act or these Bylaws, to record and prepare the minutes of all commission meetings and meetings of its committees and to maintain and provide for the safekeeping of all minutes and other official documents of the commission. The recording secretary shall have the authority to provide copies of the official records of the commission as required by the public records laws of the State of Louisiana or as otherwise directed by the commission or the executive director and to certify the authenticity of such records and the signatures of members of the commission, the executive director or others acting in their official capacity on behalf of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1265 (July 1998), LR 25:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., February 20, 1999, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Student Financial Assistance
Commission Bylaws**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation cost associated with publishing the Bylaws in the *Louisiana Register* is approximately \$120. The rule provides for the formal appointment of a Recording Secretary, but does not require the hiring of additional staff nor adjustment of salaries for existing personnel.

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
General Counsel
9901#066

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Opportunity Program for Students (TOPS)
(LAC 28:IV.301, 503, 703, 705)

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*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., February 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Tuition Opportunity Program
for Students (TOPS)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated costs to implement these rule changes include the routine charges from the *Louisiana Register* of \$660 to publish the Declaration of Emergency, the Notice of Intent and the Final Rule. Additional costs for awards are not anticipated to result

from these changes. While some decrease in costs is anticipated to result from calculating the cumulative grade point average from only core courses, the exact amount of decrease is uncertain at this time.

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.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The economic costs would directly affect TOPS award applicants who fail to meet program deadlines or other requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Jack L. Guinn
Executive Director
9901#065

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Chemical Accident Prevention
(LAC 33:III.5901)(AQ187*)

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 Air Quality Division regulations, LAC 33:III.5901 (AQ187*).

This proposed rule is identical to a federal regulation found in 64 FR 979-980, Number 3, January 6, 1999, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The proposed rule amends the Chemical Accident Prevention rule to include the recently adopted revisions to EPA's Risk Management Rule (40 CFR 68). These revisions replace SIC codes with NAICS codes; make minor changes to the Compliance Audit Section; establish items that may not be considered confidential; and add additional information required for registration, off-site consequence analysis, prevention program for Program 2 and 3, and emergency response program. Without this rule subject facilities would be required to comply with different sets of rules promulgated by the state and EPA and also would be required to submit different information in the Risk Management Plan. The basis

and rationale for this rule are to make those provisions of the Chemical Accident Prevention Program rule that adopts the federal rules by reference identical to the revised federal rule.

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

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68 (July 1, 1997), and as amended in 62 FR 45129-45132 (August 25, 1997), 63 FR 639-645 (January 6, 1998), and 64 FR 979-980 (January 6, 1999).

* * *

[See Prior Text in B-C.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:

A public hearing will be held on February 24, 1999, 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 AQ187*. Such comments must be received no later than February 24, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (225) 765-0486. The comment period for this rule ends on the same date as the public hearing.

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/olaie/irdd/olaieregs.htm>.

Gus Von Bodungen, P.E.
Assistant Secretary

9901#056

NOTICE OF INTENT

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

Limiting Volatile Organic Compound Emissions from Industrial Wastewater (LAC 33:III.2153)(AQ184)

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 Air Quality Division regulations, LAC 33:III.2153 (AQ184).

The required control efficiency for a biotreatment unit is increased from 85 percent to 90 percent. Methods are specified to demonstrate control efficiency and proper operation of the biotreatment unit. Junction boxes that have a pump or significant fluctuations in liquid level are now required to be controlled to 90 percent VOC (Volatile Organic Compound) removal. The phrase "point of generation" is replaced with "point of determination." Revisions to this rule are required so that it may be approved by EPA as part of the VOC RACT (Reasonably Available Control Technology) State Implementation Plan. The basis and rationale for this proposed rule are to increase the stringency of the rule for EPA approval.

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

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter M. Limiting Volatile Organic Compound Emissions from Industrial Wastewater

§2153. Limiting Volatile Organic Compound Emissions from Industrial Wastewater

A. Definitions. Unless specifically defined in LAC 33:III.111, the terms in this Chapter shall have the meanings normally used in the field of air pollution control. Additionally the following meanings apply, unless the context clearly indicates otherwise.

* * *

[See Prior Text]

Chemical Manufacturing Process Unit—the equipment assembled and connected by pipes or ducts to process raw materials and to manufacture an intended product. A chemical manufacturing process unit consists of more than one unit operation. For the purpose of this Section, chemical manufacturing process unit includes air oxidation reactors and their associated product separators and recovery devices; reactors and their associated product separators and recovery devices; distillation units and their associated distillate receivers and recovery devices; associated unit operations; associated recovery devices; and any feed, intermediate and

product storage vessels, product transfer racks, and connected ducts and piping. A chemical manufacturing process unit includes pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, and control devices or systems. A chemical manufacturing process unit is identified by its primary product.

* * *

[See Prior Text]

Plant—all facilities located within a contiguous area, under common control, and identified by the Plant ID number as assigned by the department, within the parish in which the plant is primarily located, for inclusion in the emission inventory system (EIS).

Point of Determination—each exit point where process wastewater exits the chemical manufacturing process unit.

Properly Operated Biotreatment Unit—a suspended growth process that generates and recycles biomass to maintain biomass concentrations in the treatment unit. The average concentration of suspended biomass maintained in the aeration basin of a properly operated biotreatment unit shall equal or exceed 1.0 kilogram per cubic meter (kg/m³), measured as total suspended solids.

* * *

[See Prior Text]

B. Control Requirements. Any person who is the owner or operator of an affected source category within a plant shall comply with the following control requirements. Any component of the wastewater storage, handling, transfer, or treatment facility, if the component contains an affected VOC wastewater stream, shall be controlled in accordance with Subsection B.1, 2, or 3 of this Section. The control requirements shall apply from the point of determination of an affected VOC wastewater stream until the affected VOC wastewater stream is either returned to a process unit, disposed of in an underground injection well, incinerated, or treated to reduce the VOC content of the wastewater stream by 90 percent and also reduce the VOC content of the same wastewater stream to less than 1000 ppm by weight. For wastewater streams that are combined and then treated to remove VOC, the amount of VOC to be removed from the combined wastewater stream shall be at least equal to the total amount of VOC that would be removed from each individual stream so that they meet the reduction criteria mentioned above in this Subsection.

* * *

[See Prior Text in B.1-B.1.c]

d. for junction boxes and vented covers the following apply:

i. if any cover or junction box cover, except for junction boxes described in Subsection B.1.d.ii of this Section, is equipped with a vent, the vent shall be equipped with either a control device or a vapor recovery system that maintains a minimum control efficiency of 90 percent VOC removal or a VOC concentration of less than or equal to 50 parts per million by volume (ppmv) (whichever is less stringent) or a closed system which prevents the flow of VOC vapors from the vent during normal operation.

ii. any junction box that is filled and emptied by gravity flow (i.e., there is no pump) or is operated with no

more than slight fluctuations in the liquid level may be vented to the atmosphere, provided it is equipped with a vent pipe at least 90 centimeters (cm) (36 inches) in length and no more than 10.2 cm (4.0 inches) in diameter;

* * *

[See Prior Text in B.1.e-B.2.g]

3. A properly operated biotreatment unit and wet weather retention basin shall meet the following requirements:

a. the VOC content of the wastewater shall be reduced by 90 percent; and

b. the average concentration of suspended biomass maintained in the aeration basin of the biotreatment unit shall equal or exceed 1.0 kilogram per cubic meter (kg/m³), measured as total suspended solids, or an alternate parameter, as approved by the administrative authority, may be measured to ensure proper operation of the biotreatment unit.

4. Any wastewater component that becomes subject to this Section by exceeding the provisions of Subsection G of this Section, or becoming an affected VOC wastewater stream as defined in Subsection A of this Section, will remain subject to the requirements of this Section. This will be the case even if the component later falls below the above-mentioned provisions unless and until emissions are reduced to a level at or below the controlled emissions level existing prior to the implementation of the project by which throughput or emission rate was reduced and less than the applicable exemption levels in Subsection G of this Section, and if the following conditions are met:

a. the project by which throughput or emission rate was reduced is authorized by any permit or permit amendment or standard permit or standard exemption required by LAC 33:III.501.B. If a standard exemption is available for the project, compliance with this Subsection must be maintained for 30 days after the filing of documentation of compliance with that standard exemption; or

b. if authorization by permit or standard exemption is not required for this project, the owner or operator has given the department 30 days notice of the project in writing.

* * *

[See Prior Text in C-D.2.b]

c. all secondary seals shall be visually inspected semiannually to ensure compliance with Subsection B.2.e of this Section;

* * *

[See Prior Text in D.3-D.3.h.iii.(a)]

(b). has certified compliance with the interim status requirements of 40 CFR part 266 subpart H; and

4. biological treatment units used to comply with Subsection B.3 of this Section shall:

a. initially demonstrate 90 percent reduction in VOCs by using methods found in Subsection E of this Section. For existing units, this shall be done as soon as practicable, but no later than May 15, 2000; and

b. measure the total suspended solids (or approved alternate parameter) in the aeration basin of the biotreatment unit weekly.

* * *

[See Prior Text in E-E.6]

7. for determination of true vapor pressure - American Society for Testing and Materials Test Methods D323-89,

D2879, D4953, D5190, or D5191 for the measurement of Reid vapor pressure, adjusted for actual storage temperature in accordance with American Petroleum Institute Publication 2517, Third Edition, 1989. In lieu of testing, vapor pressure data or Henry's Law Constants published in standard reference texts or by the U.S. EPA may be used;

8. for determination of total suspended solids - Method 160.2 (Methods for Chemical Analysis of Water and Wastes, EPA-600/4-79-020) or Method 2540D (Standard Methods for the Examination of Water and Wastewater, 18th edition, American Public Health Association);

9. for determination of biotreatment unit efficiency - Methods found in 40 CFR 63 Appendix C or 40 CFR 63.145. A stream-specific list of VOCs shall be used and is determined as follows:

a. compounds with concentrations below one ppm or below the lower detection limit may be excluded;

b. for the owner or operator that can identify at least 90 percent, by mass, of the VOCs in the wastewater stream or aqueous in-process stream, the individual VOCs that are five percent, by mass, or greater are required to be included on the list. If less than half of the total VOCs in the wastewater are represented by the compounds with a mass of five percent or greater, the owner or operator shall include those individual VOCs with the greatest mass on the stream-specific list of VOCs until 75 compounds or every compound, whichever is fewer, is included on the list, except as provided by Subsection E.9.a of this Section. The owner or operator shall document that the site-specific list of VOCs is representative of the process wastewater stream and forms the basis of a good compliance demonstration; and

c. for the owner or operator that can identify at least 50 percent, by mass, of the VOCs in the wastewater stream, the individual VOCs with the greatest mass on the stream-specific list of VOCs up to 75 compounds or every compound, whichever is fewer, are to be included on the list, except as provided by Subsection E.9.a of this Section. The owner or operator shall document that the site-specific list of VOCs is representative of the process wastewater stream and forms the basis of a good compliance demonstration; and

10. alternative test methods or minor modifications to these test methods as approved by the administrative authority*.

* * *

[See Prior Text in F-F.4]

5. all records shall be maintained at the plant for at least five years and be made available upon request to representatives of the department, U.S. Environmental Protection Agency, or any local air pollution control agency having jurisdiction in the area.

* * *

[See Prior Text in G-H]

1. The characteristics shall be determined at a location between the point of determination and the point before which the wastewater stream is exposed to the atmosphere, treated for VOC removal, or mixed with another wastewater stream. For wastewater streams that, prior to November 15, 1993, were either actually being mixed or construction had commenced that would result in the wastewater streams being

mixed, this mixing shall not establish a limit on where the characteristics may be determined.

* * *

[See Prior Text in H.2-I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:

A public hearing will be held on February 24, 1999, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. This hearing will also be for a revision to the State Implementation Plan (SIP) to incorporate this proposed rule. 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 AQ184. Such comments must be received no later than March 3, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (225) 765-0486.

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/olae/irdd/olaeregs.htm>.

Gus Von Bodungen, P.E.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Limiting Volatile Organic Compound
Emissions from Industrial Wastewater**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units from this proposal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no significant economic impact on directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposal will not have any known effect on competition or employment.

Gus Von Bodungen
Assistant Secretary
9901#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Storage of Volatile Organic Compounds; Housekeeping
(LAC 33:III.2103 and 2113)(AQ186)

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 Air Quality Division regulations, LAC 33:III.2103.A and B, and 2113.A.4 (AQ186).

The wording in LAC 33:III.2103.A and B will be changed from "true vapor pressure" to "maximum true vapor pressure." This will correspond with federal NSPS and NESHAP regulations for volatile organic compound storage vessels. The requirement in LAC 33:III.2113.A.4 that the facility submit the housekeeping plan for the reduction or prevention of volatile organic compound emissions as part of the permit application will be omitted. The plan shall be kept on site, if practical, and shall be submitted to the Air Quality Division upon request. Federal regulations do not require that a housekeeping plan for volatile organic compounds be part of the permit application. It is adequate that the plan be onsite and available to the Air Quality Division upon request. The basis and rationale for this proposed rule are to mirror federal regulations.

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

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 21. Control of Emission of Organic
Compounds**

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

A. No person shall place, store, or hold in any stationary tank, reservoir, or other container of more than 250 gallons (950 liters) and up to 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound, having a maximum true vapor pressure of 1.5 psia or greater at storage conditions, unless such tank, reservoir, or other container is designed and

equipped with a submerged fill pipe or a vapor loss control system, as defined in Subsection E of this Section, or is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere.

B. No person shall place, store, or hold in any stationary tank, reservoir, or other container of more than 40,000 gallons (151,400 liters) nominal capacity any volatile organic compound having a maximum true vapor pressure of 1.5 psia or greater at storage conditions unless such tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient at all times under normal operating conditions to prevent vapor or gas loss to the atmosphere or is designed and equipped with a submerged fill pipe and one or more of the vapor loss control devices described in Subsections C, D, and E of this Section.

* * *

[See Prior Text in C-1.5]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:27 (January 1990), LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 25:

§2113. Housekeeping

A. Best practical housekeeping and maintenance practices must be maintained at the highest possible standards to reduce the quantity of organic compounds emissions. Emission of organic compounds must be reduced wherever feasible. Good housekeeping shall include, but not be limited to, the following practices:

* * *

[See Prior Text in A.1-3]

4. Each facility shall develop a written plan for housekeeping and maintenance that places emphasis on the prevention or reduction of volatile organic compound emissions from the facility. This plan shall be submitted to the Air Quality Division upon request. A copy shall be kept at the facility, if practical, or at an alternate site approved by the Air Quality Division.

* * *

[See Prior Text in A.5]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:361 (April 1991), LR 25:

A public hearing will be held on February 24, 1999, 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 AQ186. Such comments must be received no later than March 3, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (225) 765-0486.

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/olaef/irdd/olaeregs.htm>.

Gus Von Bodungen, P.E.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Storage of Volatile Organic Compounds; Housekeeping

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units for this proposal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to persons or non-governmental groups as a result of this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposal will have no effect on competition or employment.

Gus Von Bodungen
Assistant Secretary
9901#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Waste Services Hazardous Waste Division

EPA Authorization Package—RCRA VII, VIII and IX
(LAC 33:V.Chapters 1, 3, 5, 11, 15, 17, 22, 31, 33,
35, 37, 40, 41, 43 and 49)(HW066*)

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 Hazardous Waste Division regulations, LAC 33:V.Chapters 1, 3, 5, 11, 15, 17, 22, 31, 33, 35, 37, 40, 41, 43, and 49 (Log Number HW066*).

The regulations in this proposed rule are adopted from federal regulations and promulgated with the intent of maintaining equivalency with the federal regulations located in the CFR and obtaining authorization from the EPA for RCRA programs. These federal regulations correspond to the checklists that are being used for the development of this regulatory package. This proposed rule is identical to federal regulations found in 59 FR 62896-62953; 62 FR 32974-32980, 37694-37699, 45568-45573, 64504-64509, 64636-64671; 63 FR 18504-18751, 24596-24628, 24963-24969, 28556-28753, 33782-33829, 35147-35150, 42110-42189, 46332-46334, 47409-47418, 48124-48127, 51254-51267, 56709-56735, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule encompasses the adoption of rules required for the EPA RCRA VII, VIII, and IX authorization packages. The adoption of the federal rules will impact LAC 33:V.Chapters 1, 3, 5, 11, 15, 17, 22, 31, 33, 35, 37, 40, 41, 43, and 49, making them equivalent to the federal regulations. The basis and rationale for this rule are to make the state regulations equivalent to the federal regulations and to obtain authorization.

Some of the changes in this rule include:

1. extending the national capacity variance for spent potliners from primary aluminum production (K088);
2. excluding from RCRA condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e);
3. clarifying rules related to used oil contaminated with PCBs;
4. addressing five interrelated areas associated with Phase IV Land Disposal Restrictions (LDR);
5. adding new RCRA permit modification provision intended to make it easier for facilities to make changes to their existing RCRA permits;
6. listing of four petroleum refining process wastes as hazardous K169-K172;
7. amending LDR treatment standards for metal bearing waste which exhibit the characteristic of toxicity;
8. revising the waste treatment standards applicable to 40 waste constituents associated with the production of carbamate wastes;
9. including interim replacement standards for spent potliners from primary aluminum reduction (K088) under the LDR Program;
10. modifying the requirement for a post-closure permit, to allow EPA and the authorized States to use a variety of authorities to impose requirements on non-permitted land disposal units requiring post-closure care; and

11. amending the regulations governing closure of land-based units that have released hazardous constituents, to allow certain units to be addressed through the corrective action program.

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

A public hearing will be held on February 24, 1999, 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 HW066*. Such comments must be received no later than February 24, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (225) 765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW066*.

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/ola/irdd/olaeregs.htm>.

The full text of this Notice of Intent may be obtained from the Department of Environmental Quality, Office of Waste Services, P.O. Box 82231, Baton Rouge, LA 70884-2231, or from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

L. Hall Bohlinger
Deputy Secretary

9901#068

NOTICE OF INTENT

Department of Environmental Quality Office of Waste Services Inactive and Abandoned Sites Division

Inactive and Abandoned Sites and Voluntary Cleanup
Program (LAC 33:VI.Chapters 1-9)(IA002)

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 adopt the Inactive and Abandoned Sites Division regulations, LAC 33:VI.Chapters 1-9 (IA002).

This proposed rule provides the framework for the discovery, investigation, and remediation of inactive and abandoned hazardous waste or hazardous substance contaminated sites. It also provides for the limitation of liability to prospective landowners of contaminated sites. R.S. 30:2226(H)(1), R.S. 30:2271 et seq., and R.S. 30:2285 et seq., require the department to promulgate regulations for notification to the department of hazardous substance discharge and disposals, to identify locations at which a discharge or disposal of a hazardous substance has occurred in the past, to provide a mechanism to the department to insure that the costs of remedial actions are borne by those who contributed to the discharge or disposal, to allow the department to respond as quickly as possible to discharges while retaining the right to institute legal actions against those responsible for remedial costs, to provide for the opportunity for public meeting and, if requested, a public comment period, and to provide for the return of commercial and industrial sites to productive use after remediation by the limitation of liability to landowners who voluntarily clean up contaminated sites. The basis and rationale for this proposed rule are to comply with R.S. 30:2226(H)(1), R.S. 30:2271 et seq., and R.S. 30:2285 et seq.

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

Title 33

ENVIRONMENTAL QUALITY

Part VI. Inactive and Abandoned Sites

Chapter 1. General Provisions and Definitions

§101. Purpose and Objectives

A. These regulations establish uniform administrative procedures for the regulated community for the identification, investigation, and remediation of inactive and abandoned hazardous waste or hazardous substance sites in accordance with the mandates of R.S. 30:2226(H)(1), 2274(C), and 2280.

B. These regulations provide for effective and expeditious site remediation activities that protect human health and the environment.

C. These regulations establish administrative procedures for site remediation actions by potentially responsible parties (PRPs) and for recovering remedial costs incurred by the department.

D. These regulations provide the opportunity for public participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§103. Regulatory Overview

A. Purpose. This Section provides an overview of identification, investigation, and remediation activities for sites where hazardous substances may have been disposed of and from which such hazardous substances may be discharged. This Section is a summary only; if there are any inconsistencies

between this Section and the remainder of these regulations, the regulations shall govern.

B. Site Discovery and Assessment

1. Site Discovery Reporting. These regulations establish a reporting program as required by the Louisiana Environmental Quality Act to help identify inactive or uncontrolled sites where hazardous substances may have been disposed of or discharged. Owners, lessees, and other persons who know or discover that hazardous substances have been discharged or disposed of at such a site must report this information to the Inactive and Abandoned Sites Division of the department within the specified time. The division may also discover sites through its own investigations, referrals from other agencies, or other means.

2. Louisiana Site Remediation Information System. Sites reported are placed in the Louisiana Site Remediation Information System (LASRIS) database. This database provides the division with an accurate inventory of all potential and confirmed sites in the state. All sites in the LASRIS database may not be remediated under the authority of the division; some sites may be referred to other federal and/or state programs, and some sites may not require remediation.

3. Site Assessment. A site assessment is conducted to determine if a discharge or disposal of hazardous substances has occurred at a site. The division may conduct limited sampling to determine if hazardous substances are present and/or migrating from a site. If no hazardous substances are present, the division may make a determination that No Further Action (NFA) is necessary. A NFA determination also may be made if the site falls under the jurisdiction of other state or federal agencies or if inadequate information is available to determine if the site exists. The information collected during a site assessment may be used to determine whether or not a remedial action is necessary at the site.

C. Remedial Action. The department has responsibility for determining the need for and appropriateness of remedial actions at hazardous substance sites and responsibility for implementing or authorizing such actions at any time after site discovery. The goal of the remedial action is to achieve minimum remediation standards.

1. A Remedial Investigation (RI) shall be performed by PRPs or the department. During this investigation, site conditions and contaminants will be characterized, the extent of risk to human health and the environment will be determined, preliminary remedial goals will be developed, and data for a feasibility study will be collected.

2. A Feasibility Study (FS) shall be performed to develop appropriate remedial alternatives for achieving the preliminary goals identified in the RI report and to provide performance and cost data for use in evaluating these alternatives and selecting a remedy.

3. The department shall evaluate the RI and FS and select a remedy that will protect human health and the environment.

4. When the appropriate remedy has been selected for the site, the remedy shall be implemented. The remedy may include post-remedial management.

D. Enforcement and Potentially Responsible Party

Participation. It is the policy of the department that, where possible, the cost of actions taken in accordance with the act and these regulations shall be borne by potentially responsible parties. In furtherance of that policy, the department shall invite PRPs to participate in the investigation and remediation process. The department shall impose a limited moratorium on its own site work and enforcement action while it negotiates good faith offer(s) received from one or more PRPs. The department retains the right to fully exercise all other enforcement authorities granted it by law, including administrative and judicial orders.

E. Public Information and Participation. The department shall provide public access to site-related information and shall provide opportunities for public participation in site-related decisions in accordance with the act.

F. Voluntary Cleanup Program. The department will afford limitations of liability to eligible parties for the voluntary cleanup of contaminated sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§105. Compliance With Other Laws

A. Nothing herein shall be construed to diminish the department's authority to address the presence at any site of any hazardous substance, hazardous waste, hazardous waste constituent, or other pollutant or contaminant under other applicable laws or regulations. The remediation and enforcement processes and procedures under these regulations and under other laws may be combined. The department may initiate a remedial action under these regulations and may, upon further analysis, determine that another law is more appropriate or vice versa.

B. If a hazardous substance, hazardous waste, hazardous waste constituent, or other pollutant or contaminant remains at a site after actions have been completed under other applicable laws or regulations, the department may apply these regulations to protect human health or the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§107. Authority

These rules and regulations are established by the Department of Environmental Quality in accordance with R.S. 30:2001 et seq. and, in particular, 2221 et seq. and 2271 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2226(H)(1), 2274(C), and 2280 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§109. Enforcement

Failure to comply with the provisions of these regulations or with the terms and conditions of any permit granted or order issued hereunder constitutes a violation of the act and these regulations. Such violations shall be subject to any

enforcement action including penalties in accordance with R.S. 30:2025.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(d)(6), 2203(B), 2204(B), and 2274(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§111. Construction of Rules

A. Words in the singular also include the plural, and words in the masculine gender also include the feminine, and vice versa, as the case may require.

B. The terms *applicable*, *appropriate*, *relevant*, and similar terms implying discretion mean as determined by the department, with the burden of proof on other persons to demonstrate that the requirements are or are not necessary.

C. *Approved* or *authorized* actions mean department-conducted or ordered remedial actions or cleanups agreed to by the department in an agreed order or cooperative agreement governing remedial actions at the site.

D. *Include* means included, but not limited to.

E. *May* means the provision is optional and permissive and does not impose a requirement.

F. *Shall* means the provision is mandatory.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§113. Severability

The provisions of these regulations are severable, and if any provision or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or their applications, which can be given effect without the invalid provision or application.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§115. Computation of Time

A. The day of the event from which the designated period begins to run shall not be included in the computation of a period of time allowed or prescribed in these regulations.

B. The last day of the period is to be included in the computation of a period of time allowed or prescribed in these regulations, unless it is a legal holiday, in which event the period runs until the end of the next day that is not a legal holiday.

C. A legal holiday is to be included in the computation of a period of time allowed or prescribed in these regulations, except when:

1. it is expressly excluded;
2. it would otherwise be the last day of the period; or
3. the period is less than seven calendar days.

D. A half-holiday shall be considered a legal holiday.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§117. Definitions

A. For all purposes of these rules and regulations, the terms used in this Chapter shall have the meanings given below unless specified otherwise or unless the context or use clearly indicates otherwise.

Abandoned Hazardous Waste Site—a site that has been declared abandoned in accordance with R.S. 30:2225 and LAC 33:VI.Chapter 3.

Act—the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

Administrative Authority—the secretary of the Department of Environmental Quality or his authorized designee.

Agent In Charge—the person who represents a site at the time of sampling. This can be a representative of the owner or operator, a PRP or group of PRPs, a bankruptcy trustee, the executor of an estate, an attorney representing any of these parties, or any other person with similar responsibilities.

Applicable Requirements—those cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental laws, state environmental laws, or facility siting laws that specifically address a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance found at a hazardous substance site, an inactive and abandoned hazardous waste site, or a CERCLA site.

Background Concentration—the natural ambient concentration of a hazardous substance, including both naturally occurring concentrations and concentrations from human-made sources other than the site being evaluated.

CERCLA—the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 et seq.

Closure Plan—a plan that identifies the steps necessary to perform the final closure of a facility. For the purposes of these regulations, a closure plan may be a remedial action work plan or removal work plan as described in LAC 33:VI.Chapter 5.

Confirmed Site—a site where the disposal or discharge of a hazardous substance has been confirmed by the department.

Contaminant—any hazardous substance that does not occur naturally or occurs at greater than natural background levels.

Cooperative Agreement—a legally enforceable contract between the department and a Potentially Responsible Party.

Department—Louisiana Department of Environmental Quality.

Direct Hours—time expended by employees of the department with regard to a specific site.

Discharge—the placing, releasing, spilling, percolating, draining, pumping, leaking, seeping, emitting, or other escaping of hazardous substances into the air, surface waters, subsurface or groundwater, soil, or sediments as the result of a prior act or omission, or the placing of hazardous substances into natural or manmade pits, drums, barrels, or similar containers under such conditions and circumstances that leaking, seeping, draining, or escaping of hazardous substances can be reasonably anticipated.

Disposal—the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous substances into or on any land or water such that hazardous substances may enter the environment, be emitted into the air, or be discharged into any water.

Division—the Inactive and Abandoned Sites Division of the Office of Waste Services of the Louisiana Department of Environmental Quality.

Environmentally Sensitive Area—an area needing an increased level of environmental protection, such as areas near schools and within wellhead protection areas; or an area having a terrestrial or aquatic resource, fragile natural setting, or other highly-valued environmental or cultural features such as wetlands, endangered or threatened species habitat or breeding areas, national or state parks, wildlife refuges or management areas, areas near scenic or wild rivers or streams, or national or state forests.

EPA—the United States Environmental Protection Agency.

Facility—any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly-owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or any site or area where a hazardous substance has been deposited or may have been deposited, stored, disposed of, placed, or otherwise come to be located, not including any consumer product in consumer use.

Feasibility Study or *FS*—a process performed interdependently with the remedial investigation (RI) process whereby data generated from the RI are used to develop alternative remedial actions. These alternative remedial actions are then evaluated in terms of criteria established by these regulations to select an appropriate remedial action.

Financially Responsible—able, through the use of insurance, bonds, or other assets, to take action as necessary or as ordered by the secretary in accordance with these regulations.

Groundwater—water in the saturated zone beneath the land surface.

Hazardous Substance—any gaseous, liquid, or solid material that, because of its quantity, concentration, or physical, chemical, or biological composition when released into the environment, poses a substantial present or potential hazard to human health, the environment, or property, regardless of whether it is intended for use, reuse, or is to be discarded. This term includes all hazardous waste, hazardous constituents, hazardous materials, and pollutants. The term *hazardous substance* does not include petroleum, including crude oil or any fraction thereof, that is not otherwise specifically listed or designated as a hazardous substance under this Section, and does not include natural gas, natural gas liquids, liquified natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). The term does include petroleum products that contain hazardous waste, hazardous substances, or hazardous waste constituents, except where the nature of such hazardous waste, substances, or constituents and the concentrations in which they are found in the petroleum products indicate that the contaminant is an

indigenous component of the petroleum product. Notwithstanding the foregoing, the term *hazardous substance* does not include compressed air, firecrackers, carbon paper, coal briquettes, dry ice, fish meal, flares, electric wheel chairs, motor vehicles, and tear gas devices. The following substances have been designated as hazardous by regulation:

- a. hazardous waste as defined by R.S. 30:2173 and the hazardous waste regulations, LAC 33:V.Subpart 1;
- b. pollutants listed in LAC 33:I.3931;
- c. toxic air pollutants listed in LAC 33:III.5112; and
- d. hazardous materials listed in LAC 33:V.Subpart 2.

Hazardous Substance Site—any place where hazardous substances have come to be located, including without limitation, any building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, aircraft, or any other place or area where a hazardous substance has been deposited, stored, disposed of or placed, or otherwise come to be located. A hazardous substance site may extend beyond a facility's boundary.

Hazardous Waste—those wastes identified and designated as such by the department, consistent with applicable federal laws and regulations, and any waste or combination of wastes that, because of its quantity, concentration, physical, or chemical characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. The definition of hazardous waste does not include radioactive products and byproducts regulated by the United States Nuclear Regulatory Commission or any successor thereto.

Hazardous Waste Constituent—any fraction or residue of a hazardous waste.

Hazardous Waste Site—any place where hazardous wastes have come to be located, including without limitation, any building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, aircraft, or any other place or area where hazardous waste has been deposited, stored, disposed of or placed, or otherwise come to be located. A hazardous waste site may extend beyond a facility's boundary.

Inactive or Uncontrolled Site—a site or a portion of a site that is no longer in operation.

Institutional Control—a measure undertaken to limit or prohibit certain activities that may interfere with the integrity of a remedial action or result in exposure to hazardous substances at a site.

Louisiana Site Remediation Information System or LASRIS—a list of potential and confirmed sites maintained by the Inactive and Abandoned Sites Division of the Louisiana Department of Environmental Quality.

Leachate—liquid, including any suspended components in the liquid, that has percolated through or drained from a hazardous substance or soil contaminated with a hazardous substance.

Minimum Remediation Standards—the levels of hazardous substances in media that are considered by the department to be acceptable according to risk-based standards established by the department or are derived by the department from published guidelines or those issued by other agencies.

No Further Action or NFA—a determination that further assessment or remedial actions by the division are not warranted at a particular site.

Nonparticipating Party—a person who refuses to comply with any demand by the department in accordance with LAC 33:VI, R.S. 30:2275, or with any administrative order, a person who fails to respond to any such demand or order, or a person against whom a suit has been filed by the department.

Operation and Maintenance or O and M—activities conducted at a site after a remedial action is completed to ensure that the action is effective and operating properly.

Owner—a person that owns a site, facility, or pollution source.

Operator—a person that is in control of or responsible for the operation of a site, facility, or pollution source.

Oversight—all activities performed by the department to ensure that the activities of PRPs in conducting site investigations or remedial actions relative to a site are performed in compliance with Louisiana statutes, applicable state and federal regulations, work plans approved by the department, and accepted practices and procedures. Oversight activities by the department include, but are not limited to, site inspections; the review and approval of work plans, submittals, and reports; confirmatory sampling and analysis; the evaluation and interpretation of data, plans, and reports as submitted by PRPs; and public participation activities.

Oversight Costs—costs incurred by the department associated with oversight.

Participating Party—a person who undertakes a remedial action, as approved by the department, after receiving a demand from the secretary.

Person—any individual, municipality, public or private corporation, partnership, firm, the United States government and any agent or subdivision thereof, or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, the state of Louisiana, political subdivisions of the state of Louisiana, commissions, and interstate bodies.

Pollutant—those elements or compounds defined or identified as hazardous, toxic, noxious, or as hazardous, solid, or radioactive wastes under the act and regulations, or by the secretary or commission, consistent with applicable laws and regulations.

Pollution Source—the immediate site or location of a discharge or potential discharge, including such surrounding property necessary to secure or quarantine the area from access by the general public.

Post-Remedial Management—activities conducted at a site following the completion of a final remedy when remedial goals have not been met and, in the judgment of the department, cannot feasibly be met.

Potential Site—a site at which a discharge or disposal of a hazardous substance is suspected by the department.

Potentially Responsible Party or PRP—any person who is potentially liable for a remedial action or remedial costs under state or federal law, including but not limited to, site owners and operators, and the generators, transporters, and disposers of hazardous substances.

Preliminary Remedial Action Level—the level of hazardous substances proposed to remain in the media after the successful completion of a final remedy.

RCRA—Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq.

Relevant and Appropriate Requirements—those cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility siting laws that, while not applicable to a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance at a hazardous substance site, an inactive and abandoned hazardous waste site, or a CERCLA site, address problems or situations sufficiently similar to those encountered at the hazardous substance site, inactive and abandoned hazardous substance site, or CERCLA site that their use is well suited to the particular site.

Remedial Action—the removal, confinement, or storage of any hazardous substance, including constructing barriers, securing the site, encapsulating in clay or other impermeable material, or otherwise containing or isolating the hazardous substance; cleaning up contamination; recycling or reusing of hazardous substances; diverting, destroying, or segregating reactive or other wastes; dredging or excavating a site; repairing or replacing leaking containers; collecting leachate and runoff; on-site treatment or incinerating of a substance; providing alternative water supplies; monitoring, testing, or analyzing; employing legal, engineering, chemical, biological, architectural, or other professional consultants or personnel; investigating, initiating, or prosecuting of administrative proceedings or lawsuits to final judgment; transporting and disposing of waste from a site; and any other action the department deems necessary to restore the site or remove the hazardous substance. The definition of *remedial action* shall include all types of action referred to as response actions in CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan (*Federal Register* 55(46): 8666, March 8, 1990), and includes any action referred to as a remedy in these regulations.

Remedial Cost—all reasonable costs associated with site discovery, investigation, and assessment; administrative costs of the division; costs associated with public participation; oversight costs and remedial costs including, but not limited, to removing, confining, or storing any hazardous substance; constructing barriers, securing the site, and encapsulating in clay or other impermeable material; cleaning up of contamination; recycling or reusing of a hazardous substance; diverting, destroying, or segregating reactive or other wastes; dredging or excavating a site; repairing or replacing leaking containers; collecting leachate and runoff; on-site treatment or incinerating of a substance; providing alternative water

supplies; monitoring, testing, or analyzing; employing legal, engineering, chemical, biological, architectural, or other professional consultants or personnel; investigating, initiating, or prosecuting lawsuits to final judgement; transporting and disposing of waste from the site; or any other action the secretary determines necessary to restore the site or remove the hazardous substance.

Remedial Design or RD—plans, including construction plans and specifications, necessary for implementation of the final remedy.

Remedial Goals—the concentration of a hazardous substance remaining in media at a site that is protective of human health and the environment, that has been approved and accepted by the department.

Remedial Investigation or RI—an in-depth study designed to gather the data necessary to determine the nature and extent of contamination at a contaminated site and establish criteria for cleaning up the site.

Remedial Investigation Work Plan—a plan defining the process to be followed by one or more PRPs or the department to conduct an RI.

Remedy or Final Remedy—remedial actions that result in achieving remedial goals at a site. Remedies are distinguished from other types of actions considered remedial under the act and these regulations, including without limitation, investigation, monitoring, and enforcement activities.

Removal Action—a remedial action performed by the department, or by one or more PRPs as directed by the department, wherein hazardous substances, contaminated soils, and/or other contaminated media are taken from the site to a permitted facility for treatment, storage, or disposal.

Risk—the probability that a hazardous substance, when released into the environment, will adversely affect exposed humans, other living organisms, or the environment.

Secretary—the secretary of the Louisiana Department of Environmental Quality.

Site—a hazardous substance site or a hazardous waste site.

Treatability Study—the process of conducting bench scale and/or pilot scale studies to gather data to adequately evaluate the suitability of remedial technology on specific site wastes and conditions.

Treatment—any method, technique, or process designed to change the physical, chemical, or biological character or composition of any hazardous substance so as to neutralize such substance or render it nonhazardous, safer for transport, amenable for recovery or storage, or reduced in volume. The term includes any activity or processing designed to change the physical form or chemical composition of a hazardous substance to render it nonhazardous or significantly less hazardous.

Wetlands—those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

Chapter 2. Site Discovery and Assessment

§201. Site Discovery

A. Site Discovery Reporting Requirements. As part of a program to identify inactive or uncontrolled contaminated sites, the owner, operator, or other responsible person shall report to the Inactive and Abandoned Sites Division of the department any sites where hazardous substances have been, or may have been, disposed of or discharged. This Section sets forth the requirements for reporting such sites.

B. Mandatory Reporting

1. The following persons are required to notify the division of the discharge, emission, or disposal of any hazardous substance at an inactive or uncontrolled site:

- a. the owner, operator, or lessee of the site;
- b. any person who has directly contracted for the transportation of any hazardous substance to the site;
- c. any person who generated any hazardous substance that was discharged or disposed of at the site; or
- d. any person who discharged or disposed of any hazardous substance at a site.

2. The Inactive and Abandoned Sites Division must be notified regardless of whether the contaminants were discovered before or after the effective date of these regulations.

3. The division shall be notified in writing within 30 calendar days of the discovery of the discharge or disposal of any hazardous substance at an inactive or uncontrolled site. A written report shall be prepared and sent to Louisiana Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, Box 82178, Baton Rouge, LA 70884-2178. The date that the division was officially notified shall be determined as follows:

- a. if the report was sent by U.S. mail or other courier service (e.g., Federal Express, United Parcel Service), the notification date shall be the date of the postmark on the envelope containing the written report; or
- b. if the report was delivered by other means (e.g., hand-delivered, telefaxed), the notification date shall be the date of receipt of the report by the division.

4. Persons making written notification shall provide the following information, if known:

- a. the location of the inactive or uncontrolled site;
- b. the types of hazardous substances disposed of or discharged at the site;
- c. the amounts of such hazardous substances;
- d. other names the plant, facility, or site operated under in the past; and
- e. the history of operations at the site.

5. The following discharges or disposals are exempt from these notification requirements; however, such exemption does not imply a release from liability in future actions by the division:

- a. application of pesticides and other agricultural chemicals;
- b. use of hazardous substances for domestic purposes;

c. a discharge or disposal in accordance with a permit or license issued by the department;

d. a discharge or disposal previously reported to the department in fulfillment of a reporting requirement in these regulations or in another law or regulation;

e. a discharge or disposal from the primary production or distribution of petroleum or natural gas that would be regulated by the Louisiana Department of Natural Resources; or

f. a discharge or disposal of pesticides or agricultural chemicals that would be regulated by the Louisiana Department of Agriculture and Forestry.

C. Voluntary Reporting. In addition to the mandatory reporting by those persons listed under Subsection B of this Section, all members of the public are encouraged to report to the division any suspected discharge, disposal, or presence of any hazardous substance at any inactive or uncontrolled site. This voluntary reporting can be made in writing to the address given in Subsection B.3 of this Section or by telephone by calling (225) 765-0487.

D. Other Site Discovery Mechanisms. The division may take any other actions it determines appropriate to identify inactive or uncontrolled sites where the department suspects hazardous substances have been discharged or disposed or are currently present.

1. Potentially contaminated sites may be discovered by the division using:

a. information from or investigations by other governmental agencies or offices including, without limitation, local governmental departments, the Louisiana Department of Health and Hospitals, the United States Environmental Protection Agency, and any offices or divisions within the department;

b. information available in any permit or license application, hazardous substance or hazardous material release report, or other submittals to any state, federal, or local agency or office; or

c. bankruptcy notices.

2. Without limiting the foregoing, the division may investigate any facilities or sites that belong to certain classes of government or industrial activities or any activities conducted in environmentally sensitive areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§203. The Louisiana Site Remediation Information System (LASRIS) Database

A. Each site reported to or discovered by the division in accordance with this Chapter will be placed in the Louisiana Site Remediation Information System (LASRIS) database. This database includes lists of both potential and confirmed sites.

B. Sites can be removed by the division from the potential or confirmed lists within the LASRIS database by means of a no further action (NFA) determination. A NFA determination is usually made after assessment or remedial actions are completed. This determination may be made if:

1. no evidence of contamination by hazardous substance(s) was observed at the site;
 2. the site does not fall under the jurisdiction of the division due to statutory, regulatory, or legal requirements;
 3. remedial actions were successfully completed at the site;
 4. any and all hazardous substances on site do not pose or present an imminent and substantial endangerment to health or the environment;
 5. the site does not exist based on current information;
- or
6. adequate information is not available to determine whether or not the site does exist.

C. A NFA designation for a site by the division is based on current information and does not preclude other applicable responses taken by another regulatory program or agency. A NFA designation may be reversed if site conditions change or if new information becomes available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§205. Site Assessment

A. The division may conduct a site assessment at any time after a site has been placed in the LASRIS database. The order in which sites are selected for assessment shall be determined by the division, at its sole discretion, based upon available information and case assignment strategy.

B. The purpose of a site assessment is to provide sufficient information to make a determination for the disposition of the site by the division. To determine the disposition of a site the division may:

1. determine whether the site could best be handled under the authority of the United States Environmental Protection Agency or by state regulatory authority;
2. for sites under state authority, determine which state regulatory authority has jurisdiction over the site;
3. determine whether there is adequate evidence that hazardous substances have been discharged or disposed of at a site;
4. identify the hazardous substances (if present) and collect information regarding the extent and concentration of such substances;
5. identify site characteristics that could result in movement of the hazardous substances present at the site into or through the environment;
6. perform an initial evaluation of the potential risk to human health or the environment posed by the site; or
7. determine whether further investigation or action is necessary.

C. The owners, lessees, or agents in charge of sites undergoing assessment shall:

1. provide the department, when applicable, with access to the site and to any buildings or structures on the site in accordance with R.S. 30:2012; and
2. allow the department to collect environmental samples at the site. If sampling is necessary, the division will make a reasonable attempt to notify the owner, lessee, or agent

in charge in advance of the sampling date. If requested and if practical, the owner, lessee, or agent in charge will be allowed a split of any samples taken by the division. However, it is the responsibility of the owner, lessee, or agent in charge to obtain proper sample containers to receive the split samples and to provide for analysis at a laboratory. A copy of the chain of custody for the samples will be given to the owner, lessee, agent in charge, or their representative if present at the site at the time of sampling. A copy of the analytical results obtained by the division will be provided to the owner, lessee, or agent in charge.

D. If the department assesses a site and assigns it confirmed site status, costs incurred by the department for that assessment shall be recoverable as described in these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

Chapter 3. Administrative Processes

§301. Assignment of Inactive and Abandoned Hazardous Waste Sites Program

In accordance with R.S. 30:2222 the Office of Waste Services is assigned the duties, responsibilities, and authority of administering the Inactive and Abandoned Hazardous Waste Sites Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§303. Declaration That a Site Is Abandoned

A. Authorization. The department is authorized by chapter 10 of the act to declare a site abandoned after appropriate procedures are followed, to impose liens on such property, and to take investigation and remediation actions at such property as the department determines necessary. The department may declare a site to be abandoned upon a finding that the site:

1. has received for storage, treatment, or disposal or now contains or emits wastes that are identified, classified, or defined to be hazardous wastes in accordance with these regulations;
2. was not closed in accordance with the requirements of the act, as defined in these regulations, and other regulations adopted thereunder;
3. constitutes or may constitute a danger or potential danger to human health and the environment; and
4. has no financially responsible owner or operator who can be located by the department or has one or more financially responsible owners or operators who have failed or refused to undertake actions ordered by the administrative authority in accordance with R.S. 30:2204(A) or (B).

B. Site Owner(s) Notice and Response

1. Prior to declaring a site to be an abandoned hazardous waste site, the administrative authority shall seek to notify each person who the department reasonably believes may own a current interest in the site that:

- a. the site is to be declared abandoned;
- b. the owner is liable for the costs of the investigation and remediation of the site;
- c. the declaration of abandonment and/or use of the property for disposal of hazardous wastes may be recorded in the mortgage records of the parish where the property is located in accordance with R.S. 30:2039; and
- d. a lien may be imposed on the property in accordance with R.S. 30:2225(F)(1).

2. In accordance with R.S. 30:2225(C), notice shall be published on three consecutive occasions in the official journal of the parish where the site to be declared abandoned is located.

3. Within 10 calendar days of the publication of the last official journal notice, any owner may request a hearing regarding the declaration of abandonment. If a request for a hearing is received, the department shall hold a hearing in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

C. Effect of a Declaration of Abandonment

1. Upon declaration that a site is abandoned, the secretary shall notify the attorney general of such declaration and request that the attorney general take such specific legal actions as requested by the department, including:

- a. acquiring emergency easements and rights of way;
- b. conducting negotiations for property acquisition; and
- c. exercising the right of eminent domain, as provided by R.S. 30:2036, to secure the site or compel cleanup or containment of hazardous substances consistent with these and other regulations and guidelines established by the administrative authority.

2. No declaration of abandonment or other action by the department in accordance with this Section shall be construed to result in any transfer of liability to the state.

3. The administrative authority may record the declaration of abandonment in the mortgage records of the parish where the property is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§305. Property Liens

A. Liens Against Property Declared Abandoned By the Department

1. In accordance with R.S. 30:2225(F)(1) the administrative authority, by recording the declaration of abandonment in the mortgage records of the parish where the property is located, may create a lien against the property declared to be abandoned for the lesser of:

- a. the extent of the expenditures by the state necessary to remedy the problem; or
- b. the extent of the property's appraised value after said expenditures.

2. The administrative authority may state in the declaration that the lien is limited to certain portions of the property declared to be abandoned.

3. The department may file a lien on property that has been declared abandoned prior to incurring any remedial action costs. The filing of a sworn statement of the amount expended perfects the lien retroactively to the date that the declaration of abandonment was recorded.

4. Liens on property that has been declared abandoned in accordance with this Chapter may be removed by the owner of the property as follows:

- a. the person requesting removal of a recorded lien on a site that has been declared abandoned may file a sworn statement with the department setting forth his or her ownership or other financial interest in the property;

- b. the owner may apply to the administrative authority or file an action in the district court seeking to require the clerk to erase the lien from the records. If the administrative authority or the court finds that the property owner has demonstrated, by a preponderance of the evidence, that the discharge was in no way caused by any action or negligence on the part of the owner, the administrative authority or the court may authorize the clerk to release the lien; or

- c. in the alternative the administrative authority or court may authorize the clerk to reduce the value of the lien to have the debt so recorded be reduced to the appraised value of the property.

B. Liens Against Property Where the Department Has Taken Remedial Action Under Chapter 12 of the Act

1. In accordance with R.S. 30:2281, to assist in his recovery of remedial costs, the administrative authority may impose a lien on any immovable property within the state of Louisiana belonging to any PRP where the department has incurred remedial costs related to said property. The administrative authority may file this lien at any time after the department incurs remedial costs for which the owner of the immovable property is potentially liable. These costs may include all remedial costs.

2. Properly recorded liens filed by the department shall have priority in rank over all other privileges, liens, encumbrances, or other security interests affecting the property. Privileges, liens, encumbrances, or other security interests affecting the property that are filed or otherwise perfected before the filing of the notice of lien of the state authorized by these regulations shall remain as prior recorded security interests only to the extent of the fair market value of the property prior to all remedial actions by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

Chapter 4. PRP Search, Notification, and Demand for Remediation

§401. PRP Search

A. Purpose

1. The purpose of this Chapter is to provide a mechanism for the department to ensure that the costs of remedial actions are borne by the potentially responsible parties for each site where hazardous substances are present,

while at the same time reserving for the department the right to respond as quickly as possible to sites where hazardous substances may be present and the right to institute legal actions against those parties potentially responsible for remedial costs.

2. The department shall seek to identify potentially responsible parties (PRPs) and shall notify them that they are required to provide information to the department. The determination of who will be required to provide information shall be made at the sole discretion of the department. The department's failure to notify any particular PRP to submit information shall not preclude enforcement action by the department against that PRP or any other PRP, including actions for the recovery of remedial costs by the department, nor shall it preclude the department from taking any other action in accordance with the act, these regulations, or any other law.

B. Role of PRPs in Remedial Actions. The department may, at its sole discretion, direct PRPs to perform any site investigation, remedial investigation, feasibility study, and/or remedial action in accordance with the following:

1. the site investigation, remedial investigation, feasibility study, and/or remedial action shall be performed subject to a work plan approved by the department or performed subject to an enforceable cooperative agreement or judicial or administrative order;

2. the site investigation, remedial investigation, feasibility study, and/or remedial action shall be properly and promptly performed by the PRPs within statutory, regulatory, and administrative deadlines and in accordance with technical and procedural requirements set forth in these regulations and any other applicable laws, regulations, guidance documents, or policy statements;

3. the PRPs performing the site investigation, remedial investigation, feasibility study, and/or remedial action shall participate in any public participation activities determined by the department to be appropriate;

4. the PRPs must have and maintain a satisfactory record of compliance with statutes and requirements enforced by the department; and

5. the PRPs must reimburse the department for all remedial costs as defined in these regulations.

C. Preliminary PRP List

1. The department may develop an initial list of PRPs if:

a. there is an actual or potential discharge or disposal that may present an imminent and substantial endangerment to human health or the environment at a pollution source or facility; and

b. if the department finds that any of the parties:

i. generated a hazardous substance that was disposed of or discharged at the pollution source or facility;

ii. transported a hazardous substance that was disposed of or discharged at the pollution source or facility;

iii. disposed of or discharged a hazardous substance at the pollution source or facility;

iv. contracted with a person for transportation or disposal of a hazardous substance at the pollution source or facility; or

v. owns or owned or operates or operated the

pollution source or facility subsequent to the disposal of a hazardous substance.

2. Additional PRPs may be added to the preliminary list at any time if the administrative authority determines that other parties fit within the categories of persons potentially responsible for the site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§403. Notification to Provide Information

A. The administrative authority shall send a written notification to provide information to all PRPs identified during its preliminary PRP investigation. The administrative authority may, at its discretion, send supplemental or additional notifications to any PRP identified by the administrative authority at any time during the remedial action process.

B. The notification to provide information shall require each recipient to provide all available information regarding the specified site, including without limitation:

1. the types of hazardous substances and their chemical name or makeup, if known;

2. the quantities of hazardous substances disposed of or discharged;

3. the location(s) of disposal or discharge from any known pollution source or facility;

4. dates of disposal of hazardous substances and quantities disposed of on each date;

5. names of persons providing transportation of hazardous substances; and

6. names of owners or operators of the site at the time of disposal or discharge of hazardous substances.

C. PRPs must respond to the administrative authority within 45 calendar days of receipt of the notification to provide information. The administrative authority may grant reasonable extensions to the 45-day period upon written request submitted by a PRP prior to the expiration of the initial period.

D. Any PRP who willfully fails to provide the information required by the administrative authority in accordance with this Section shall be liable for a penalty of up to \$25,000 for each day of violation in accordance with R.S. 30:2274(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§405. Demand for Remediation to PRPs

A. Upon its determination that a discharge or disposal of a hazardous substance has occurred, or is about to occur, that may present an imminent and substantial endangerment to human health or the environment, the administrative authority shall issue a written demand for remediation to PRPs that have been identified by the administrative authority at the time the determination is made. This demand shall be made in accordance with R.S. 30:2275 and sent by certified mail.

B. Upon receipt of a demand for remediation, a PRP must respond to the administrative authority within 60 calendar days

with a good faith proposal to undertake the remedial actions approved by the administrative authority in accordance with LAC 33:VI.705.B. The administrative authority may grant reasonable extensions to the 60-day period upon written request submitted by a PRP prior to the expiration of the initial period.

C. If any PRP fails to respond to a demand for remediation sent in accordance with this Section, the administrative authority may take all actions authorized under the act.

D. If, after investigation, the administrative authority determines that it is not feasible to make demand on every known PRP for a particular site in accordance with R.S. 30:2275(D) and these regulations, then such demand may be limited to those parties determined most responsible by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

Chapter 5. Site Remediation

§501. Remedial Actions

A. A remedial action is an action that reduces a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance at a site or corrects a threat to human health or the environment that may become substantially worse or cost substantially more to address if the action is delayed.

B. The department shall consider the following factors in determining the need for or the appropriateness of a remedial action consistent with Subsection A of this Section:

1. actual or potential exposure from hazardous substances to nearby human populations, animals, or the food chain;
2. actual or potential contamination of drinking water supplies or sensitive ecosystems by hazardous substances;
3. the threat of release of hazardous substances in drums, barrels, tanks, or other bulk storage containers;
4. the threat of migration of hazardous substances from the site;
5. the threat of release or migration of hazardous substances or pollutants or contaminants caused by weather conditions;
6. the threat of fire or explosion;
7. the availability of other federal or state remedial mechanisms to respond to the release; or
8. the presence of other situations or factors that may pose threats to human health or the environment.

C. Remedial actions may occur at any time after site discovery. However, if the remedial action is performed prior to or in conjunction with a state site assessment, sufficient technical information regarding the site must be available to ensure that the remedial action is warranted and appropriate.

D. Remedial actions shall be implemented until the Risk Evaluation/Corrective Action Program (RECAP) standards developed in accordance with LAC 33:I.Chapter 13 have been attained. Remedial actions shall not be used to delay or supplant other remedial actions.

E. The PRP must record a notation on the conveyance to the site property, or on some other instrument that is normally examined during a title search, that will in perpetuity notify any potential buyer of the property that the site has hazardous substances remaining at levels above department RECAP standards for residential use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§503. Minimum Remediation Standards and Risk Evaluation/Corrective Action Program Standards

The goal of site remediation activities is to achieve the minimum remediation standards defined in the RECAP standards in accordance with LAC 33:I.Chapter 13. The standards shall be used in determining the remedial goals at the site. Remedial goals are the concentration of hazardous substances remaining in media at a site that are protective of human health and the environment and that have been approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§505. Removal Action

A removal action is a remedial action performed by the department, or by PRPs as approved by the department, wherein hazardous substances, contaminated soils, and/or other contaminated media are taken from the site to a permitted facility for treatment, storage, or disposal.

1. Removal actions may:
 - a. achieve the RECAP standards for the site as a whole;
 - b. achieve the RECAP standards for a part of the site;or
 - c. provide a partial remedy (i.e., provide a remedy for some of the hazardous substances from all or part of the site, but not completely achieve the RECAP standards).
2. Removal actions shall be consistent with the final remedy (defined in LAC 33:VI.511) if the final remedy is known.
3. The success of the removal action shall be verified by the department, or PRPs as directed by the department, using confirmation sampling.
4. If the removal action results in achievement of the RECAP standards established by the department, the department may determine that no further action is required. The department may then issue a decision document stating that the removal action is the final remedy and no further action is required.

5. If the removal action does not result in the achievement of the RECAP standards, as established by the department for the site as a whole, additional remedial actions (LAC 33:VI.507-515) shall be taken by the department, or by PRPs as directed by the department.

B. A removal action work plan shall be prepared by the department, or by PRPs as directed by the department. Any plan prepared by PRPs shall be reviewed and approved by the

department prior to the commencement of the removal action. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. The minimum requirements for a removal action work plan include:

1. a description of existing site conditions and a summary of all available data relevant to the removal action at the site;

2. a description of the intended removal action activities;

3. a sampling and analysis plan; and

4. a site-specific health and safety plan.

C. Opportunities for public participation may be provided by the department, or PRPs as directed by the department, in accordance with LAC 33:VI.Chapter 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§507. Remedial Investigation

A. A Remedial Investigation (RI) includes:

1. the determination of the nature and extent of potential threats to human health and the environment through data collection and site characterization;

2. the performance of a risk assessment; and

3. the development of preliminary RECAP standards.

B. A RI shall be performed at all sites where a removal action is not performed or does not achieve the RECAP standards.

C. To complete a RI the department, or PRPs as directed by the department, shall provide the following:

1. Remedial Investigation Work Plan. A remedial investigation work plan shall be prepared by the department, or by PRPs as directed by the department. Any plan prepared by PRPs shall be reviewed and approved by the department. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. The remedial investigation work plan will conform with the site investigation requirements of RECAP and, at a minimum, include the following:

a. identification of all data needs following the review of existing site assessment reports and other existing data;

b. identification of all potential exposure pathways/receptors and associated data needs;

c. identification of any existing or potential natural resource damages and associated data needs and notification of the appropriate state and federal trustees;

d. identification of all potentially applicable, relevant, and appropriate state and federal requirements and associated data needs;

e. identification of preliminary RECAP standards to be used in the evaluation of potentially applicable remedial alternatives and associated data needs;

f. a site-specific health and safety plan including necessary training, procedures, and requirements;

g. a site-specific sampling and analysis plan that includes the number, type, and location of all samples to be taken and the types of analyses to be conducted during required

site characterization activities; and

h. a quality assurance/quality control plan that identifies the quality assurance objectives and the quality control procedures necessary to obtain data of sufficient quality for the RI.

2. Field Investigations. In order to characterize the nature and extent of any threats to human health and the environment posed by the site, the department, or PRPs as directed by the department, shall conduct field investigations. These field investigations shall provide data sufficient to support the development of preliminary RECAP standards and the evaluation of remedial alternatives. Investigations may be conducted in multiple phases in order to focus sampling efforts and increase the efficiency of the investigation. Field investigations shall address the following, as applicable to the site:

a. physical characteristics of the site, including important surface features, soils, geology, hydrogeology, ecology, and meteorology;

b. characteristics or classifications of the air, surface water, and groundwater at the site;

c. characteristics of all contaminated media at the site;

d. characteristics of each contaminant at the site, including concentration, species (when applicable), toxicity, susceptibility to bioaccumulation, persistence, and mobility;

e. extent of the contamination at the site;

f. actual and potential exposure pathways through environmental media;

g. actual and potential receptors;

h. natural resources and sensitive populations or habitats that may be injured; and

i. other factors that impact the remedial alternatives investigated.

3. Establishment of Preliminary RECAP Standards. Preliminary RECAP standards shall be established in accordance with LAC 33:I.Chapter 13.

4. Remedial Investigation Report. Following the completion of the RI, a remedial investigation report shall be prepared by the department, or by PRPs as directed by the department. Any RI report prepared by PRPs shall be reviewed and approved by the department. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report. At a minimum, this report shall include:

a. a scope and description of the investigation;

b. a site background summary;

c. sampling and analysis results;

d. identification of the sources of release;

e. identification of the horizontal and vertical extent of contamination;

f. a risk assessment;

g. proposed preliminary RECAP standards; and

h. conclusions and recommendations for further action.

D. The department shall provide, or shall direct PRPs to provide, opportunities for public participation and comment as required in LAC 33:VI.Chapter 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§509. Corrective Action Study

A. A Corrective Action Study (CAS) includes:

1. the development of appropriate remedial alternatives for achieving the preliminary RECAP standards identified in the RI report; and

2. the provision of performance and cost data for use in evaluating these alternatives and selecting a remedy.

B. The CAS shall be used by the department or by PRPs to demonstrate that one or more remedial alternatives will meet the preliminary RECAP standards. Alternatively, PRPs may demonstrate in the CAS that compliance with the preliminary RECAP standards is technically infeasible and may propose alternative preliminary RECAP standards. The development and evaluation of alternatives in the CAS shall reflect the scope and complexity of the site problems being addressed.

C. Corrective Action Study Activities

1. Identification of RECAP Standards. Following approval of the RI report and the identification of the preliminary RECAP standards, the department, or PRPs as directed by the department, shall identify potential remedial alternatives for the site. Remedial alternatives identified and examined in the CAS should include a no further action (NFA) alternative and at least one treatment-based alternative. 2

Screening of Remedial Alternatives. Potential remedial alternatives shall be screened based upon the following criteria:

a. Effectiveness. The primary criterion for screening the alternatives is whether or not an alternative can effectively achieve the preliminary RECAP standards determined for the site as follows:

i. alternatives that have been proven capable of achieving the preliminary RECAP standard for contaminants and environmental media of concern shall be retained for further evaluation;

ii. alternatives that have been proven incapable of achieving the preliminary RECAP standards shall be eliminated from further consideration unless it is successfully demonstrated to the department that no known remedial alternative can achieve the preliminary RECAP standard; and

iii. alternatives that are unproven and are innovative technologies or approaches may be retained for further evaluation when it is successfully demonstrated to the department through treatability studies that the preliminary RECAP standards will be achieved;

b. Implementability. This criterion focuses on the technical and administrative ability of the department, or PRPs as directed by the department, to implement an alternative as follows:

i. technical implementability is determined by the availability of full-scale equipment, demonstrated processes, and remediation services to the department or the PRPs; and

ii. administrative implementability is determined by the ability of the department or PRPs to obtain all required permits or waivers;

c. Infeasible Alternatives. Alternatives that may ultimately prove to be technically or administratively infeasible to implement shall be eliminated from further consideration;

d. Relative Cost. Alternatives that offer technical applicability and implementability similar to that of other alternatives but at grossly higher construction, operation, and maintenance costs shall be identified and eliminated if lower-cost alternatives are available that can meet the preliminary RECAP standards; and

e. Regulatory Requirements. Remedial actions must meet all state and federal Applicable, Relevant, and Appropriate Requirements (ARARs) for the location or for specific remedies. Alternatives that fail to meet all ARARs shall be eliminated.

3. Performance of Treatability Studies. Treatability studies may be conducted to:

a. generate the critical performance and cost data needed to evaluate and select remedial alternatives;

b. provide quantitative data for use in determining whether an alternative can achieve the preliminary RECAP standards; or

c. determine whether additional more detailed treatability testing is required.

4. Evaluation of the Alternatives. Analysis of the remedial alternatives shall consist of a detailed assessment of the individual alternatives using the evaluation criteria described below, followed by a comparison of the relative performance of each alternative. Individual alternatives shall be evaluated using the following criteria:

a. ability of the alternative to achieve the preliminary RECAP standards and other applicable requirements;

b. long-term effectiveness and permanence of the alternative, considering the magnitude of residual risk after implementation of the remedy, adequacy and reliability of engineering or institutional controls, and degree to which treatment is irreversible;

c. reduction of toxicity, mobility, or volume through treatment, considering:

i. the treatment process used and materials treated;

ii. the amount of hazardous materials destroyed or treated;

iii. the degree of expected reductions in toxicity, mobility, and volume; and

iv. the type and quantity of residuals remaining after treatment;

d. short-term effectiveness, considering:

i. the protection of community and workers during implementation of the alternative;

ii. the environmental impacts during implementation of the alternative; and

iii. the time required until preliminary RECAP standards are achieved;

- e. implementability, considering:
 - i. the ability to construct and operate the technology at the site;
 - ii. the reliability of the technology;
 - iii. the cost of undertaking additional remedial actions (if necessary);
 - iv. the ability to monitor effectiveness of the remedy;
 - v. the ability to obtain approvals from other agencies;
 - vi. coordination with other agencies;
 - vii. the availability of off-site treatment, storage, and disposal services, and capacity for disposal of residuals;
 - viii. the availability of necessary equipment and specialists; and
 - ix. the availability of prospective technologies;
- f. cost effectiveness, considering capital costs and operating and maintenance costs; and
- g. compliance with all state and federal ARARs.

5. Evaluation of the Impact of Remedial Alternatives on Natural Resources. If natural resources will be or may be injured by the release of hazardous substances, steps shall be taken by the department, or by PRPs as directed by the department, to ensure that state and federal trustees of the affected natural resources are notified. The department shall seek to coordinate necessary assessments, evaluations, investigations, and plans with such state and federal trustees. The department shall give priority to remedies that mitigate actual or potential threats to natural resources or restore those natural resources that have been injured.

6. Preparation of a Corrective Action Study Report. Following the completion of the corrective action study activities in this Subsection, a CAS report describing the results of all required CAS activities shall be prepared by the department, or by PRPs as directed by the department. Any CAS report prepared by PRPs shall be reviewed and approved by the department prior to the approval of the CAS. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§511. Selection of the Final Remedy

- A. The final remedy shall:
 - 1. protect human health and the environment;
 - 2. comply with the RECAP standards determined in accordance with these regulations; and
 - 3. comply with federal and state ARARs. An alternative remedy that does not meet an ARAR under federal environmental or state environmental or facility siting laws may be selected under the following circumstances:
 - a. the alternative is an interim measure and will become part of a total remedial action that will attain the ARAR;
 - b. compliance with the requirement will result in greater risk to human health and the environment than other alternatives;

- c. compliance with the requirement is technically impracticable from an engineering perspective;
- d. the alternative will attain a standard of performance that is equivalent to that required under the otherwise applicable standard, requirement, or limitation through use of another method or approach; or
- e. for a remedial action funded by the department only, an alternative that attains the ARAR will not provide a balance between the need for protection of human health and the environment at the site and the availability of monies to other sites that may present a threat to human health and the environment.

B. To select the final remedy for remedial actions other than removal actions, the department shall:

- 1. assess the remedial alternatives described in the CAS report, considering:
 - a. the goals, objectives, and requirements of the act and these regulations;
 - b. state and federal ARARs;
 - c. the current and expected uses of the site property;
 - d. the effectiveness of the remedy in significantly reducing the volume, toxicity, or mobility of the hazardous substances at the site;
 - e. the effectiveness of the remedy in permanently reducing the volume, toxicity, or mobility of the hazardous substances at the site (permanent remedies shall be preferred);
 - f. the reliability of the remedial alternatives, and the potential for future remedial costs if an alternative does not achieve the desired RECAP standard;
 - g. the ability to monitor remedial performance;
 - h. the cost effectiveness of a final remedy (cost effectiveness shall be considered only in choosing between alternatives that each adequately meet the requirements in this Section); and
 - i. other factors determined appropriate by the department;
- 2. finalize the RECAP standards;
- 3. prepare a decision document stating the final remedy that includes:
 - a. the final RECAP standards for the site and a brief discussion of how these were determined;
 - b. a brief description of each remedial alternative evaluated;
 - c. the results of the evaluation of the alternatives and identification of the alternative selected by the department;
 - d. a brief discussion of the strengths and weaknesses of the selected alternative relative to the site, contaminated media, and contaminants;
 - e. a discussion of the results of the risk assessment if the preferred alternative would result in hazardous substances, contaminants, or pollutants remaining at the site in concentrations above the RECAP standards; and
 - f. an explanation of any waivers of state or federal ARARs;
- 4. present the preferred alternative to the public in a draft decision document in accordance with the public participation procedures described in LAC 33:VI.Chapter 8; and

5. consider the comments and information submitted during a public comment period if held in accordance with LAC 33:VI.Chapter 8 and revise the draft decision document as necessary.

C. The administrative authority shall issue a final decision document based upon Subsection B.1-4 of this Section.

D. If a removal action was performed at the site and the RECAP standards established by the department were achieved, then the removal action may be considered a final remedy. The department may determine that no further action is required and issue a decision document stating that the removal action is the final remedy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§513. Design and Implementation of the Final Remedy

A. Remedial Design. The department, or PRPs as directed by the department, shall develop a Remedial Design (RD) that will successfully implement the remedy defined by the decision document approved by the administrative authority for that site. Any remedial design prepared by PRPs shall be reviewed and approved by the department. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' design.

B. Remedial Project Plan. The remedial project plan shall include all tasks, specifications, and subplans necessary for the implementation of the remedial design, including construction and operation of the final remedy. The remedial project plan shall be prepared by the department, or by PRPs as directed by the department. Any plan prepared by PRPs shall be reviewed and approved by the department prior to implementation of the final remedy. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. The minimum requirements for the remedial project plan include:

1. a work plan, including:
 - a. a general description of the work to be performed and a summary of the engineering design criteria;
 - b. maps showing the general location of the site and the existing conditions of the facility;
 - c. a copy of any required permits and approvals;
 - d. detailed plans and procedural material specifications necessary for construction of the remedy;
 - e. specific quality control tests to be performed to document the construction, including:
 - i. specifications for the testing or reference to specific testing methods;
 - ii. frequency of testing;
 - iii. acceptable results; and
 - iv. other documentation methods as required at the discretion of the department;
 - f. start-up procedures and criteria to demonstrate the remedy is prepared for routine operation; and
 - g. additional information to address state, federal, and local ARARs;
2. a sampling and analysis plan;
3. a quality assurance/quality control plan;

4. a site-specific health and safety plan;
5. a project implementation schedule; and
6. other information required at the discretion of the department. The department may allow information to be incorporated by reference to avoid unnecessary duplication.

C. Design or Plan Modifications. Any and all changes in the remedial design or remedial project plan shall be approved by the department before implementation.

D. Implementation of the Remedy. All implementation activities shall be:

1. performed in compliance with the remedial design and the remedial project plan, as approved by the department; and
2. consistent with intent of the act and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§515. Revisions to the Final Remedy

A. Information may become available during the remedial design process or during the implementation of the final remedy that requires a modification to the final remedy for the site.

B. If such information is discovered by a PRP, the PRP shall:

1. notify the department that a modification is necessary;
2. submit the relevant information to the department with an explanation of the proposed change; and
3. where appropriate and at the department's discretion, meet with the department to discuss the submitted information and the proposed modification to the final remedy.

C. If the department determines that a modification is necessary (whether proposed by a PRP or by the department) and if the modification changes the final remedy in the final decision document, then the administrative authority shall:

1. issue a revised final remedy decision document;
2. direct corresponding revision of the remedial design and remedial project plan; and
3. comply with the public notification requirements set forth in LAC 33:VI. Chapter 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§517. Inspections by the Department

A. The department reserves the right to perform site and/or construction inspections at all sites where remedial work is being performed.

B. The department may require that any and all activities be halted at a site if the activity:

1. is not consistent with approved plans;
 2. is not in compliance with accepted construction procedures;
 3. is not in compliance with environmental regulations;
- or
4. endangers human health or the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2012 et seq., 2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§519. Completion of the Final Remedy

A. Following completion of the implementation of the remedial design, the success of the remedial action in achieving the remedial goals shall be assessed by the department.

B. Departmental assessment may result in:

1. No Further Action (NFA). Remedial actions that result in the successful achievement of the remedial goals established by the department shall be judged completed, and the site shall be assigned NFA status; or

2. Post-Remedial Management. Sites not eligible for NFA status shall be placed under post-remedial management as described in LAC 33:VI.521. These sites shall include:

a. sites where leaving hazardous substances at the site with post-remedial management was part of the approved remedy; or

b. sites where the approved remedy was unsuccessful, the remedial goals approved by the department were not met and, in the judgement of the department, cannot feasibly be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§521. Post-Remedial Management

A. General

1. Sites shall be placed under post-remedial management performed by the department, or by PRPs as directed by the department, where:

a. hazardous substances remain on-site at levels above remedial goals; or

b. post-remedial management is part of the approved remedy.

2. Management activities shall include the continued operation of long term remedies, the maintenance of the site and its facilities, and continued monitoring of site conditions.

B. Operation and Maintenance. An operation and maintenance (O and M) plan shall be prepared for all sites assigned post-remedial management because hazardous substances remain at the site at levels above remedial goals or where O and M is part of the approved remedy. O and M plans prepared by PRPs shall be submitted to the department for review and approval. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. O and M plans prepared by PRPs for a site where leaving hazardous substances at the site is part of the approved and completed remedy shall be submitted to the department for review and approval at least six months prior to completion of the remedy. Each O and M plan shall include, but not be limited to:

1. the name, telephone number, and address of the person responsible for the operation and maintenance of the site;

2. a description of all operation and maintenance tasks and specifications;

3. all design and construction plans;

4. any applicable equipment diagrams, specifications, and manufacturer's guidelines;

5. an operation and maintenance schedule;

6. a list of spare parts available at the site for repairs;

7. a site-specific health and safety plan; and

8. other information as requested by the department.

C. Monitoring. If required by the department, a monitoring plan shall be developed by the department, or by PRPs as directed by the department. A monitoring plan prepared by PRPs shall be submitted to the department for review and approval. The department shall provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. This plan shall include a description of provisions for monitoring of site conditions during the post-remedial management period to prevent further endangerment to human health and the environment, including:

1. the location of monitoring points;

2. the environmental media to be monitored;

3. the hazardous substances to be monitored and the basis for their selection;

4. a monitoring schedule;

5. monitoring methodologies to be used (including sample collection procedures and laboratory methodology);

6. provisions for quality assurance and quality control;

7. data presentation and evaluation methods;

8. a contingency plan to address ineffective monitoring; and

9. provisions for reporting to the department on a semiannual basis including, at a minimum:

a. the findings from the previous six months;

b. an explanation of any anomalous or unexpected results;

c. an explanation of any results that are not in compliance with the RECAP standards; and

d. proposals for corrective action.

D. Periodic Review By the Department. The department shall review the status of sites assigned to post-remedial management a minimum of every five years to determine whether or not any hazardous substances remaining at the site are endangering human health and the environment. During this review, the department shall periodically assess, through site visits, review of O and M reporting, and review of monitoring reports, the adequacy of various aspects of the post-remedial management activities at the site. These aspects include, but are not limited to:

1. compliance with the O and M schedule;

2. determination of whether or not the implementation of the O and M plan is proceeding as designed to maintain the intended level of protection to human health and the environment;

3. compliance with monitoring data reporting requirements;

4. completion of any necessary repairs;

5. compliance with and effectiveness of institutional controls (if any were implemented as part of the remedy);

6. determination of whether or not any newly enacted laws or regulations promulgated are applicable to the site and require additional action; and

7. post-remedial management costs incurred.

E. Discontinuation of Post-Remedial Management. The department may discontinue post-remedial management activities based upon its periodic review, as described in Subsection D of this Section. Discontinuation of post-remedial management will result in a determination of no further action by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§523. Oversight of Potentially Responsible Parties by the Department

A. All remedial actions and post-remedial management activities performed by PRPs shall be subject to oversight by the department or the department's authorized representative. Nothing in this Section shall affect the responsibility or liability of any PRP.

B. The department's objective in oversight of PRP-conducted remedial actions is to verify that the work complies with:

1. the governing legal document or settlement agreement (e.g., cooperative agreement or judicial or administrative order);

2. any statement of work, project plan (work plan, sampling and analysis plan, quality assurance/quality control plan, health and safety plan), or other plan developed and approved for the remedial action;

3. generally accepted scientific and engineering methods; and

4. all federal, state, and local ARARs, as appropriate.

C. The level of oversight provided by the department shall be:

1. determined by the department;

2. site-specific; and

3. dependent on the nature and complexity of the remedial action.

D. All costs incurred by the department in providing oversight of remedial actions performed by PRPs shall be fully recoverable by the department in accordance with LAC 33:VI. Chapter 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

Chapter 6. Cost Recovery

§601. Purpose and Scope

A. This Chapter shall govern the recovery of remedial costs incurred on or after the effective date of these regulations. Nothing herein shall prevent the department from recovering remedial costs incurred prior to the effective date of these regulations.

B. As stated in R.S. 30:2271, all remedial costs incurred shall be borne by PRPs wherever possible.

C. The department may elect not to pursue cost recovery where, based on information gathered by the department, it reasonably has determined that:

1. no PRPs can be identified;

2. no identified PRP is financially viable;

3. the PRP identified is a parish, state or political subdivision of the state, or federal entity;

4. the department may be unable to meet its burden of proof on one or more elements of its case;

5. the time and expense of the department's effort to recover costs exceed the amount to be recovered;

6. a legal action, settlement, or agreement between the PRP(s) and the department or state precludes past, present, and/or future cost recovery; or

7. the department meets unforeseen legal, administrative, or programmatic constraints that preclude further attempts at recovering costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§603. Calculation and Invoicing of Remedial Costs

A. Remedial costs shall be calculated to reflect the actual cost of remedial actions to the department, including but not limited to, all costs of investigation, remediation, enforcement, oversight, and cost recovery. Such costs shall be calculated as the sum of:

1. direct personnel costs—the total of the number of direct hours expended by all department employees with regard to a specific site multiplied by the employee's hourly rate at the time the expense was incurred;

2. fringe benefits—the total of all personnel fringe benefits based on the categories and their respective rates for hours expended by each employee at the site;

3. department's direct costs—the total of direct costs to the department, including without limitation, personnel, operating services, equipment, supplies, travel, sampling, and contractual charges; and

4. payments made by the department to its contractors—the total of all payments made by the department to its contractors, grantees, or agents for planning, management, direction, or performance of remedial and oversight actions for a specific site.

B. The department will invoice PRPs according to the cost recovery provisions defined in a legal agreement and/or R.S. 30:2271 et seq. and/or as determined necessary by the department.

C. The department may establish by rule an indirect rate and may recover indirect costs, such as office space, file storage space, utilities, insurance, equipment usage, administrative overhead, operating services, and other overhead costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§605. Documentation of Remedial Costs

A. The department shall document all remedial costs. This documentation shall be the basis for recovery of remedial costs.

B. The department shall compile and retain supporting documentation for costs for which it may seek reimbursement. This documentation may include, but is not limited to:

1. time and attendance records;
2. records of the cost of site-specific travel including, but not limited to, travel reimbursement forms, requisitions, invoices, or memoranda;
3. invoices from the purchase of supplies, services, or equipment for a specific site;
4. contractor invoices;
5. cooperative agreements or other legal action documents;
6. records of site-specific direct costs, such as laboratory sampling and analytical costs, equipment rentals, copying service, or other services; and
7. records reflecting the costs of bringing an enforcement action, including without limitation, staff time, equipment use, hearing records, expert assistance, and such other items as the department determines to be a cost of the action. Contractor quarterly reports or pre-award documents that may contain confidential information concerning contractor overhead and labor rates shall not be included.

C. Unless required for a longer period of time, documents shall be retained at the offices of the department for a period of at least three years from completion of the remedial action or until the time that the department determines that no further action is required at a site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§607. Determination of Remedial Costs; Demand to PRPs

A. Timing. The department may at any time prepare a written determination of the cost of partial or complete remediation of a site. The department may revise its determination in writing at any time thereafter.

B. Demand to PRPs. The department may seek to recover its remedial costs using any of the means described in the act and these regulations.

C. Treble Liability

1. PRPs who fail to comply with demand letters, administrative orders, or court orders concerning the site without sufficient cause are potentially liable for three times the total remedial costs.

2. In the event the court finds any PRP liable for three times the value of the remedial costs allocated by the court to that PRP, this finding shall not be used to mitigate the allocated share of other PRPs also found liable for the site.

D. Review of Cost Documentation

1. The department will provide an opportunity for review of the cost documentation for a particular site to any person who has received a demand for payment of remedial costs from the department. The department may accept written factual information to support any dispute concerning the

calculation of the demand. The department may take such further action as it determines necessary regarding review.

2. Neither the department's cost determination nor any administrative review in accordance with Subsection D.1 of this Section shall be considered to be an adjudication in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

Chapter 7. Settlement and Negotiations

§701. Purpose

A. The goal of the department in all settlement negotiations with PRPs is to obtain complete site remedial actions by the PRPs and/or to collect 100 percent of the department's costs for site remediation.

B. The liability of PRPs to the department is absolute and presumed in solido.

C. Where the department finds that PRP involvement will further the department's goals, the department may enter into negotiations with the PRPs, subject to the limitations and procedures set forth in this Section. With the concurrence of the attorney general where required by law, the department may settle or resolve, as deemed advantageous to the state, any suits, disputes, or claims for any penalty under the act or these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§703. Cooperative Agreements

A. Cooperative agreements may be used to reflect agreements by PRPs to conduct any remedial action at a site or to reimburse the department for remedial costs. This does not preclude the use of enforcement action, if necessary.

B. The department may enter into cooperative agreements with any person for the purpose of conducting any remedial action measures in accordance with these regulations.

C. The department may enter into a cooperative agreement with one or more PRPs as a result of negotiations.

D. Each cooperative agreement shall address the following provisions:

1. a statement of jurisdiction;
2. a description of parties bound;
3. a description of work to be performed or of costs to be paid and a schedule for such work or payment;
4. oversight by the department;
5. access;
6. reporting requirements;
7. project deliverables, including a schedule for submission and revisions;
8. project coordinators;
9. a requirement for certification upon completion of work;
10. reimbursement of remedial costs, if applicable;
11. force majeure;

12. retention of records;
13. notices and submissions;
14. effective date; and
15. appendices.

E. Each cooperative agreement may contain the following provisions:

1. indemnification of the department and insurance;
2. stipulated penalties;
3. covenants not to sue;
4. quality assurance/quality control and sampling and data analysis;
5. assurance of financial ability to complete work;
6. emergency response procedures;
7. dispute resolution procedures;
8. information to be provided to the department; and
9. public participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§705. Negotiations

A. Purpose. The department's goal in negotiating PRP participation in remedial actions and reimbursement of the costs incurred by the department is to obtain complete remediation by the PRPs and/or to collect 100 percent of the department's remedial costs.

B. Good Faith Proposal

1. Upon receipt of the demand letter in accordance with LAC 33:VI.405.B or at any other time, PRPs who wish to pay for the department to conduct a remedial action or who wish to conduct the action themselves shall respond in writing within 60 days or such other time that the department may specify and make a good faith offer concerning the implementation of the remedial action or payment of the department's costs. The department will negotiate with PRPs only if the initial proposal from the PRPs constitutes a substantial portion of the remedial action or a good faith proposal. The department has sole discretion to determine whether to start negotiations after receipt of a proposal from PRPs.

2. In making its decision, the department shall weigh factors it deems appropriate, including the potential resource demands for conducting the negotiations against the likelihood of getting 100 percent of the department's costs or a complete remedial action.

3. The department may elect to negotiate for less than 100 percent when it deems that the circumstances of the case warrant such action.

4. When there are five or more PRPs interested in negotiating, the department may request that the PRPs select a representative to negotiate with the department.

C. Negotiations After Issuance of Administrative Orders. PRPs who have received unilateral administrative orders may negotiate with the department for dismissal of the administrative order upon execution of a cooperative agreement unless an emergency situation has been declared or the department determines that a stay of remedial actions or of enforcement will be detrimental to the public health, welfare,

or the environment. The department has sole discretion in determining whether to enter into negotiations after issuance of a unilateral administrative order. Except by written determination of the department, no request for or conduct of negotiations in accordance with this Section shall serve to stay or modify the terms of any such unilateral administrative order.

D. Notice to Fewer Than All PRPs. Nothing in these regulations shall be construed to require the department to send a notification and a demand for information in accordance with R.S. 30:2274 or a demand for remedial action or costs in accordance with R.S. 30:2275 when the department determines that it is not feasible to make a demand on every PRP. PRPs who do not receive such notifications or demands remain subject to later notification letters, demand letters in accordance with LAC 33:VI.403 and 405, unilateral administrative orders, or other enforcement actions. PRPs who did not receive a notification or a demand but who are interested in responding with a good faith offer may participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§707. Contribution Protection

A. Any responsible party that has resolved its liability to the department in an administrative or judicially approved settlement shall be considered to be a participating party within the meaning of R.S. 30:2276(G) and as defined in these regulations and shall not be liable for claims by any other parties regarding matters addressed in the settlement.

B. Settlement between the department and any party does not discharge any other PRPs unless the terms of the settlement documents so provide, but such settlement shall reduce the potential in solido liability of the others by the amount of the settlement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§709. De Minimis Settlements

A. If practicable and in the public interest, as determined by the administrative authority, the department may settle with any PRP whose waste contribution to a site is minimal in terms of amount and toxicity in comparison to other hazardous substances or hazardous wastes or hazardous waste constituents at the site.

B. The department may consider a de minimis settlement offer when it has sufficient information about all identified PRPs, including financial information, to determine each PRP's waste contribution to the site and information about the costs of remedial action at the site.

C. The goal of negotiations with de minimis parties is to achieve quick and standardized agreements through the expenditure of minimal enforcement resources and transaction costs. Where feasible the department may require de minimis parties to negotiate collectively at multi-party sites.

D. To attain the goal set forth in Subsection C of this Section, the de minimis settlement should ordinarily involve a cash payment to the department by the settling party or parties, rather than a commitment to perform work. Where a remedial action is being conducted in whole or in part by PRPs, it may be appropriate for settling de minimis parties to deposit the amount paid in accordance with the de minimis settlement into a site-specific trust fund to be administered by a third party trustee and used for remedial action for that site.

E. In evaluating a de minimis settlement offer the department may consider any factors and information it deems appropriate, including:

1. amount of waste contributed;
2. toxicity of potential settling party's waste;
3. costs of litigation;
4. public interest considerations;
5. value to the department of a present sum certain; and
6. nature and strength of the case against nonsettling

PRPs.

F. De minimis agreements shall be entered into as cooperative agreements or judicial orders, in accordance with these regulations. Any de minimis settlement shall contain, in addition to other standard provisions, the following terms:

1. requirement that the settling party be responsible for a percentage of site remedial costs in excess of that amount the department and the party agree may be allocated to the settling party for purposes of settlement (premium payment);
2. reservation of natural resource damage recovery, except where expressly waived by the natural resource trustee(s); and
3. reopener clauses allowing the department to pursue the settling de minimis parties if information not known to the department at the time of settlement indicates that the volume and toxicity criteria for settlement is no longer satisfied with respect to the settling party or parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§711. Mixed Funding

A. PRP Lead Site. The department may provide funds from the Hazardous Waste Site Cleanup Fund, as defined in R.S. 30:2205, to a responsible party for the purpose of assisting with the cost of remediation incurred by the responsible party. This assistance may be provided through cooperative agreements in accordance with R.S. 30:2032.

B. Department Lead Site. The department may accept funds from PRPs for the purpose of assisting with the payment of remedial costs incurred by the department, regardless of when those costs are incurred. This assistance may be provided solely in the form of cash contributions, which may go to either the Hazardous Waste Site Cleanup Fund or to the Environmental Trust Fund, as defined in R.S. 30:2015, at the department's discretion.

C. Eligibility and Mixed Funding Criteria. The administrative authority shall make a determination whether a proposal is eligible for funding. The only circumstances under which mixed funding can be approved by the department are

when the funding will achieve both:

1. substantially more expeditious or enhanced remediation than would otherwise occur; and
2. the prevention or mitigation of unfair economic hardship. In considering this criterion the department shall consider the extent to which mixed funding will either prevent or mitigate unfair economic hardship faced by the PRP, if the remedial action were to be implemented without public funding, or achieve greater fairness with respect to the payment of remedial costs between the PRP entering into a cooperative agreement with the department and any nonsettling PRPs.

D. Funding Decision. The department may hold informal discussions on mixed funding with PRPs for a particular site. If a responsible party is found to be eligible for mixed funding, the administrative authority shall make a determination regarding the amount of funding to be provided, if any. This shall be determined at the discretion of the administrative authority and is not subject to review. A determination of eligibility is not a funding commitment. Actual funding will depend on the availability of funds.

E. Remedial Costs. The department may recover the amount of public funding spent on remedial actions from the nonparticipating PRPs. For purposes of such cost recovery action, the amount in mixed funding attributed to the site shall be considered as remedial costs paid by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§713. Availability of Facilitation/Mediation

The department, at its sole discretion, will entertain PRP requests to participate in alternative dispute resolution procedures such as mediation, nonbinding arbitration, and facilitation at the PRP's expense. The department must agree upon the selection of any facilitator or mediator engaged to conduct the dispute resolution procedure.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

Chapter 8. Public Information and Participation

§801. Public Information

A. The department shall ensure that site-related information is available to the public by providing access to all public records and information obtained by the department unless such information has been designated confidential by the secretary, as authorized in R.S. 30:2030 and/or LAC 33:I.501.

B. As appropriate, the department, or PRPs as directed by the department, shall actively disseminate information to the public concerning site remedial activities. All information dissemination activities undertaken by PRPs shall be performed under the direction and approval of the department. Methods for disseminating site information include, but are not limited to, the methods listed in Subsection B.1-3 of this Section.

1. Information Repositories. The department may establish and maintain an information repository in a public location near the site. If a repository is established, PRPs shall provide the department with copies of all necessary documents.

2. Fact Sheets or Newsletters. The department, or PRPs as directed by the department, may draft and distribute fact sheets or newsletters concerning site activities. If directed by the department, PRPs shall provide for the drafting, printing, and distribution of the fact sheets or newsletters.

3. Informational Open Houses. The department may hold informational open houses to discuss site activities with interested citizens. If directed by the department, the PRPs shall assume all costs of these informational meetings and shall provide materials as directed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§803. Public Participation

A. In order to ensure that the public has an opportunity to comment on site-related decisions, the department, or PRPs as directed by the department, shall provide opportunities for public participation as listed in this Section. All public participation activities undertaken by PRPs shall be performed under the direction and approval of the department.

1. For sites that have been declared abandoned in accordance with R.S. 30:2225, an opportunity for public comment shall be provided for any site closure plan in which the department proposes to treat, store, or dispose of hazardous wastes at the site.

a. Notice of the public comment period and any public hearing on the closure plan shall be placed in the newspaper of general circulation in the parish where the site is located. The contents and format of the notice shall follow guidelines established by the department.

b. Prior to the commencement of the public comment period, the department, or PRPs as directed by the department, shall place a copy of the site closure plan in a public location near the site.

2. For sites where the secretary has made a demand for remedial action in accordance with R.S. 30:2275, the department shall, upon written request, provide an opportunity for a public meeting prior to approval of a site remedial investigation plan and selection of a remedy. Additionally, if a written request is received, the department shall hold a public comment period of not more than 60 calendar days duration prior to approval of a site remedial investigation plan and selection of a site remedy. Written requests shall be mailed to Louisiana Department of Environmental Quality, Inactive and Abandoned Sites Division, Box 82178, Baton Rouge, LA 70884-2178, ATTENTION: Administrator.

a. Notice of the public comment period and public meeting should be placed in the newspaper of general circulation in the parish where the site is located. The contents and format of the notice shall follow guidelines established by the department.

b. Prior to any public comment period, the department, or PRPs as directed by the department, shall place a copy of the document being reviewed in a public location near the site.

B. The department shall, as appropriate, provide or direct PRPs to provide additional opportunities for public participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

Chapter 9. Voluntary Cleanup Program

§901. Authority

These regulations are established by the Department of Environmental Quality in accordance with R.S. 30:2001 et seq. and, in particular, R.S. 30:2285 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§903. Purpose

The purpose of these regulations is to protect, conserve, and replenish the environment by affording limitations of liability to eligible parties for the voluntary cleanup of contaminated sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§905. Definitions

Responsible Person or Responsible Landowner—a person who is responsible under the provisions of this Chapter for the discharge or disposal or threatened discharge or disposal of a hazardous substance or hazardous waste on or in immovable property. However, an owner of immovable property or a person who has an interest therein is not a responsible person for the purposes of this Chapter only, unless that person:

1. was engaged in the business of generating, transporting, storing, treating, or disposing of a hazardous substance or hazardous waste on or in the property or knowingly permitted others to engage in such a business on the property;

2. knowingly permitted any person to make regular use of the property for disposal of waste;

3. knowingly permitted any person to use the property for disposal of a hazardous substance;

4. knew or reasonably should have known that a hazardous substance was located in or on the property at the time right, title, or interest in the property was first acquired by the person and engaged in conduct associating that person with the discharge or disposal; or

5. took action that significantly contributed to the discharge or disposal after that person knew or reasonably should have known that a hazardous substance was located in or on the property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§907. Eligibility for Voluntary Cleanup Program

Parties not eligible for liability limitation under the voluntary cleanup regulations are sites where ranking packages have been submitted to the U.S. Environmental Protection Agency headquarters proposing their inclusion on the National Priorities List (NPL) or sites listed on the NPL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§909. Remedial Investigation Review and Oversight

A. All voluntary cleanup plans submitted for approval of the secretary shall include an approved remedial investigation report that describes the methods and results of an investigation of the discharges or disposals and threatened discharges or disposals at the identified area of immovable property.

B. The secretary may, upon request, assist a person in determining whether immovable property has been the site of a discharge or disposal or a threatened discharge or disposal of a hazardous substance or hazardous waste. The secretary may also assist in, or supervise, the development and implementation of reasonable and necessary remedial actions. Assistance may include review of department records and files and review and approval of a requestor's investigation plans and reports and remedial action plans and implementation. The review of department records and files are not construed to mean that the secretary will develop or implement any remedial action or investigation plan and report or remedial action plan.

C. Persons requesting review and oversight of remedial investigation plans shall submit an application to the department. The application form is available from the Inactive and Abandoned Sites Division. The person requesting review and oversight of a remedial investigation shall pay the department's cost, as determined by the secretary, of providing assistance.

D. The remedial investigation shall be conducted in accordance with LAC 33:VI.507.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§911. Voluntary Remedial Action Plan Review and Oversight

A. Voluntary remedial action plans shall be submitted to the secretary for those sites for which the owner or potential purchaser wishes to receive limitation of future liability and a certificate of completion. The secretary may provide assistance to review voluntary remedial action plans or supervise remedial action implementation in accordance with R.S. 30:2289.1.

B. Persons requesting review and oversight of voluntary

remedial action plans shall submit an application to the department. The application form is available from the Inactive and Abandoned Sites Division. The person requesting review and oversight of a voluntary remedial action shall pay the department's cost, as determined by the secretary, of providing assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§913. Partial Remedial Actions

A. The secretary may approve a voluntary remedial action plan submitted under these regulations that does not require the removal or remedy of all discharges or disposals and threatened discharges or disposals of hazardous substances and hazardous wastes at an identified area of immovable property, if the secretary determines that all of the following criteria have been met:

1. if reuse or development of the property is proposed, the voluntary remedial action plan provides for all remedial actions necessary to allow for the proposed reuse or development of the immovable property in a manner that does not pose a significant threat to public health, safety, and welfare and the environment;

2. the remedial actions and the activities associated with any reuse or development proposed for the property will not aggravate or contribute to discharges or disposals or threatened discharges or disposals that are not required to be removed or remedied under the voluntary remedial action plan and will not interfere with or substantially increase the cost of future remedial actions to address the remaining discharges or disposals or threatened discharges or disposals; and

3. the owner of the property agrees to cooperate with the secretary, or other persons acting at the direction of the secretary, in taking remedial actions necessary to investigate or address remaining discharges or disposals or threatened discharges or disposals and to avoid any action that interferes with the remedial actions.

B. An owner shall be required to agree to any or all of the following terms necessary to carry out remedial actions to address remaining discharges or disposals or threatened discharges or disposals:

1. to provide access to the property to the secretary and the secretary's authorized representatives;

2. to allow the secretary, or persons acting at the direction of the secretary, to undertake activities at the property, including placement of borings, wells, equipment, and structures on the property; and

3. to grant rights-of-way, servitudes, or other interests in the property to the department for any of the purposes provided in Subsection B.1 and 2 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§915. Land Use Restrictions

A. Owners of land subject to a partial remediation where discharges or disposals or threatened discharges or disposals

of hazardous substances or hazardous wastes remain on the property shall impose use restrictions on the future use of the property, as may be determined by the secretary to be necessary to prevent a significant threat to public health, safety, and welfare and to the environment. No land may be partially remediated under this Section unless such restrictions are imposed and recorded as follows:

1. the secretary shall determine the use restrictions and may conduct public hearings for the purpose of determining the reasonableness and appropriateness of such restrictions in the parish where the land is located. The use restrictions, or notice thereof, shall be recorded with the clerk of court in the official records of each parish where the land is located. The use restrictions may not be modified or canceled or removed from the official records unless so authorized by the secretary; and

2. the secretary shall not authorize such modification, cancellation, or removal unless the land is further remediated to remove or remedy the remaining discharges or disposals and the remaining threatened discharges or disposals of hazardous substances and wastes in accordance with the requirements of the secretary. In order to determine whether to authorize such modification, cancellation, or removal, the secretary shall conduct at least one public hearing in the parish in which the property is located at least 30 days, and not more than 60 days, prior to making the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

§917. Certificate of Completion

A. Any remedial action taken under an approved voluntary remedial action plan is not completed until the secretary certifies completion in writing. If remedial action reports acceptable to the secretary submitted under this Chapter demonstrate that no further action is required to protect human health and the environment, the secretary shall certify such facts by issuing the person a final certificate of completion. If the applicant is satisfactorily maintaining the engineering controls, remediation systems, or post-closure care, or if non-permanent institutional controls are utilized pursuant to an agreement, the secretary shall certify such facts by issuing the applicant a conditional certificate of completion.

B. For partial remedial actions the certificate of completion shall pertain only to the partial response action area and shall include a legal description of that area.

C. For sites approved prior to the effective date of these regulations, the secretary shall issue a certificate of completion only if currently appropriate remedial actions for all contaminants within the area described in the certificate of completion have been completed.

D. The secretary may allow the applicant to file the copy of the certificate of completion into the site deed record on the secretary's behalf if the applicant provides subsequent documentation of the filing. The applicant must file the copy of the certificate of completion prior to the sale or transfer of the property, but not later than 60 days after the date of issuance of

the certificate of completion.

E. The secretary may allow the applicant to file a statement in the deed records stating that the certificate of completion supersedes prior deed certification requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Inactive and Abandoned Sites Division, LR 25:

A public hearing will be held on February 24, 1999, 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 IA002. Such comments must be received no later than March 3, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (225) 765-0486.

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/olae/irdd/olaeregs.htm>.

L. Hall Bohlinger
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Inactive and Abandoned Sites and Voluntary Cleanup Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Existing staff and facilities will be used to implement Chapters 1 through 8 of this rule. Additional costs for the implementation of Chapter 9 are estimated to be \$255,626 per year.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
State revenue collection will be increased an estimated \$256,626 by the collection of fees from participating parties for review and oversight of remedial investigations and remedial actions under the voluntary cleanup program. An increase in local revenue collections will be realized by the addition of idled properties being placed back on the tax rolls and an increase in employment.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Implementation of this rule should result in a net economic benefit to affected persons or non-governmental groups by

bringing underutilized properties back into commerce with the limitation of liability for future remedial costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is expected that an increase in needed environmental consulting and contracting will correspond with the expected increase in the number of voluntary cleanup program sites addressed under this rule.

L. Hall Bohlinger
Deputy Secretary
9901#060

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

Peace Officers—Standards and Training
(LAC 22:III.Chapter 47)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4701. Definitions

A. The following terms, as used in these regulations, shall have the following meanings:

Law Enforcement Training Course—a basic or advanced course of study certified by the Council on Peace Officer Standards and Training (POST), for the purpose of educating and training persons in the skills and techniques of a peace officer in the discharge of his duties.

Peace Officer—any full-time employee of the state, a municipality, a sheriff or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, highway laws of this state, but not including any elected or appointed head of a law enforcement department. Peace officer also includes those sheriff's deputies whose duties include the care, custody and control of inmates.

Training Center—any POST accredited school, academy, institute, or any place of learning whatsoever, which offers or conducts a law enforcement or corrections training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4703. Basic Certification

A. All full-time peace officers, as defined in R.S. 40:2402, shall complete a basic training course as prescribed and certified by the Council on Peace Officers Standards and Training (POST Council). Reserve or part-time officers or military police officers stationed in Louisiana may be eligible for certification if they successfully complete a basic training course prescribed for full-time peace officers and pass the POST statewide examination. There are three levels of POST certification:

1. Level 1 Certification for Basic Law Enforcement Peace Officers

a. The student will complete a training course with a minimum of 320 hours for full certification. Level 1 certification requires that the student meet the POST requirements for firearm certification.

2. Level 2 Certification for Basic Correctional Peace Officer

a. The student will complete a training course with a minimum of 218 hours and is limited to those peace officers whose duties are the care, custody, and control of inmates. The training course consists of the ACA core curriculum plus a sufficient number of hours to obtain POST certification. POST Firearm certification for Level 2 students is optional.

3. Level 3 Certification for Jailer Training Officers

a. The student will complete a training course with a minimum of 90 hours and is limited to those correctional officers whose duties are the care, custody, and control of inmates. This course consists of the ACA core correctional officer curriculum. POST Firearm certification for Level 3 students is not required.

B. Students shall adhere to all standards, rules and regulations established by the accredited training center. Certification will not be awarded to students who are physically unable to complete every aspect of the basic training course. A student may not be certified for successful completion if:

1. the student's excused absences exceed 10 percent of the total hours of instruction;

2. the student fails to achieve a passing grade of 70 percent or higher on each block of instruction;

3. the student fails to achieve a grade of 80 percent or higher on the requirements for firearm certification;

4. all aspects of the training course have not been successfully completed.

C. Students shall be required to pass the POST statewide written examination for peace officers as prescribed by state law. Seventy percent shall constitute a passing score. In the event a student fails the examination, one retest may be administered if the agency head so desires. The student must wait a minimum of fifteen working days before the retest can be administered with a maximum time limit of thirty working days. If said student fails the retest, the student shall be required to complete another basic training course and satisfy all POST requirements to obtain certification. Oral testing on the statewide examination is prohibited.

D. To maintain firearm certification, an officer shall be required to requalify yearly on the POST firearms qualification course, demonstrating at least 80 percent proficiency. Scores shall be computed and verified by a firearms instructor certified by the POST Council. If the period between qualifying exceeds 18 months for any reason, the officer will be required to complete a basic firearms course at an accredited training center, unless the officer had been in the military for more than three years and was exercising his veteran reemployment rights.

E. When a basic student injures themselves during a basic training course, the student must have the nature of the injury immediately documented. Should the injury later prevent the student from being tested on a basic training course requirement, then upon written request of the agency head, the student will have eight weeks from the time of the medical release to take and pass those course requirements, unless the time between the academy graduation and medical release exceeds a one year period. In that case, the student will be required to complete another basic training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4705. Registration of Officers

A. Registration may be granted in lieu of certification to those officers who were hired prior to January 1, 1986, who did not attend POST-certified basic training.

B. Officers hired prior to January 1, 1986, may be eligible to receive POST registration by completing the following requirements.

1. A letter from the agency head shall be submitted to the POST Council indicating a desire to have the officer registered with the state;

2. Documentation shall accompany the letter regarding initial employment date and continuous law enforcement service on a form prescribed by POST.

3. POST registration shall not apply to reserve/auxiliary officers.

4. Registration is granted in lieu of certification to full-time officers, and shall not apply to reserve or part time officers. POST certification is only granted to those individuals who successfully meet all requirements of POST: a. completion of a basic training course, examination, etc.;

b. registration simply means that the full-time officer is *registered* with POST and he/she is not required to comply with the mandates for basic POST certification;

c. they are exempt from basic training course (i.e., *grandfathered in*), but must comply with all other POST mandates to maintain grandfathership;

d. grandfathership/registration shall become invalid if officer experiences a three-year break in full-time law enforcement service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4707. Out-of-State Transfers

A. Out-of-state-transfers shall be eligible for certification by meeting the following criteria at an accredited training center:

1. present a currently valid out-of-state POST certificate. Training applicants transferring from out-of-state who are not certified will not be recognized by POST;

2. must be a full-time employed peace officer and not a part-time, reserve, or auxiliary officer;

3. successfully complete "Legal Aspects" Section of the *Louisiana Law Enforcement Basic Training Manual*, (40 minimum hours);

4. successfully complete "Firearms" Section of the *Louisiana Law Enforcement Training Manual*, (40 minimum hours);

5. pass the statewide examination for peace officers with a minimum score of 70 percent; if failed, the student must complete a full basic training course.

B. Out-of-state transfers with less than a 320 hour basic training course are required to complete an entire POST basic training course.

C. Out-of-state transfers who have attended "pre-service" training in another state shall be required to meet the same POST requirements as basic recruit officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4709. Interruption of Full-Time Service

A. Any peace officer hired prior to January 1, 1986 who interrupts his full-time law enforcement service for a period in excess of three years and is thereafter rehired, shall be required to meet the basic training requirements for new peace officers. However, if such officer has already completed a POST certified basic training course, he shall be required to complete the Legal Aspects and firearms portion of the course, qualify on the POST firearms qualification course, and pass the statewide examination, all at an accredited training center. Proof of basic training will be required. If the student fails the statewide examination, the student must complete a full basic training course.

B. Any officer hired after January, 1986 who interrupts his full-time law enforcement service for a period in excess of three years and is thereafter rehired, shall be required to meet the requirements outlined in §4709.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4715. Instructor Qualifications

A. Full-time academy instructors must meet the following qualifications:

1. shall possess two years college and/or practical experience in law enforcement or corrections;

2. each two years experience may be substituted for one year of college. Any combination of above will be acceptable;

3. shall have completed the instructor development course conducted by the Federal Bureau of Investigation. If the

course is not available within Louisiana within one year, POST may waive this requirement until such time as a course becomes available.

4. shall have completed two years practical experience in law enforcement or corrections field.

B. Specialized instructors for defensive tactics, firearms, and corrections shall meet the following qualifications:

1. shall be a full-time employee of a public criminal justice agency with at least two years full-time continuous, practical law enforcement experience, and pertain to firearms, defensive tactics, and corrections instructors;

2. shall have recommendation of an academy director or agency head;

3. shall successfully complete all aspects of specialized instructor school as presented by POST and the Federal Bureau of Investigation (FBI) (except for Defensive Tactics Instructors);

4. shall attend POST-sponsored instructor retrainers as required by POST.

C. Special guest instructors shall meet the following qualifications:

1. shall have advanced knowledge or expertise in the area in which they are instructing;

2. shall not certify students in defensive tactics, firearms or corrections fields.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4721. Firearms Qualification

A. Pre-Academy Firearms Training

1. Any person employed or commissioned as a peace officer, or reserve or part-time peace officer must successfully complete a pre-academy firearms training program as prescribed by the council within 30 days from the date of initial employment if that person will be performing the duties of a peace officer before attending a basic law enforcement training course.

B. Pre-Academy and Basic Firearms Qualification

1. Students shall qualify with an approved service weapon on the POST-approved Firearms Qualification Course and all scoring will be computed and recorded by a firearms instructor certified by the POST Council.

a. During a pre-academy training program, a student who fails may be given retests. Any person who fails shall be prohibited from exercising the authority of a peace officer until they have successfully completed the course. However, such persons shall not be prohibited from performing administrative duties.

b. During a basic law enforcement training course, it shall be left to the discretion of the training center director whether a student who fails to qualify on the POST Qualification Course will be given retests. However, if retests are given, the scores will be averaged in accordance with POST regulations and must be completed before the academy class graduates.

2. On a twenty-five (25) yard range equipped with POST-approved P-1 targets, the student, given a pistol or revolver, holster and 240 rounds of ammunition, will fire the POST firearms qualification at least four (4) times. Scores must be averaged and the student must:

a. fire all courses in the required stage time;

b. use the correct body position for each course of fire;

c. fire the entire course using double action only, except in the case of single action only semi-automatic pistols;

d. fire no more than the specified number of rounds per stage;

e. fire each course at a distance no appreciably less nor greater than that specified.

f. achieve an average score of not less than 96 out of a possible 120 which is 80 percent or above. The score shall be computed as follows: Score 1 + Score 2 + Score 3 + Score 4 = Qualifying Score (divided by) the number of attempts.

g. all stages of fire must be fired in the manner specified.

3. All targets will be graded and final scores computed by a POST-certified Firearms Instructor.

C. Annual Requalification

1. The POST firearms requirements for annual requalification are the same as for basic qualification with one exception. If the POST Fire-arms qualification course must be fired more than once, the scores shall be averaged as designated in basic firearms qualification.

2. All targets will be graded and final scores computed by a POST-certified Firearms Instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:343 (August 1987), amended LR 25:

§4723. POST Firearms Qualification Course

A. Stage One

1. At the 25-yard line, the student will fire six rounds strong hand barricade standing, six rounds, strong hand, barricade kneeling, and six rounds, strong hand or off hand barricade, standing, offside, barricade in ninety seconds. Movement to the barricade is required to a maximum distance of 5 yards.

B. Stage Two

1. At the seven-yard line, the student will fire 12 rounds, standing in 25 seconds, with mandatory reloading for all weapons after first six rounds; 6 rounds kneeling in 10 seconds, and 6 rounds off-hand only in 8 seconds.

C. Stage Three

1. At the four-yard line, student will fire three rounds, one-or two-hands, instinct shooting position from holster, in three seconds, and three rounds, one-or two hands, instinct shooting position from ready-gun position, in three seconds. This is repeated once.

D. Stage Four

1. At the two-yard line, one or two hands close quarter shooting position from holster, the student will fire two

rounds in two seconds. This is repeated twice. During the shooting, the student is required to move one step to the rear.

E. The entire POST firearms qualification course is fired with a hot line, meaning the officer shall automatically reload as soon as his weapon is empty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:

§4731. Revocation of Certification

A. All law enforcement agencies and correctional agencies and institutions within the State of Louisiana shall immediately report the conviction of any POST certified full-time, reserve, or part-time peace officer to the council.

B. Any offense which results in the individual peace officer's restriction of his/her constitutional right to bear arms shall be grounds for immediate revocation. The revocation of any certification is effective immediately when the council receives a certified copy of a court's judgment and issues notice to the peace officer. Notice of the revocation shall be sent via certified US mail to the peace officer and the officer's employing agency.

C. All criminal convictions involving a peace officer shall be directed to the council's attention for potential revocation hearings. The council shall review each criminal conviction and conduct hearings on each reported conviction.

D. The chairman of the council shall designate a revocation committee to review potential peace officer revocations and report any findings to the next council meeting. The revocation committee shall consist of:

1. a police chief;
2. a sheriff;
3. a district attorney;
4. the Superintendent of State Police; and
5. the Attorney General or his designee.

E. Any hearings conducted by the council or the revocation committee shall be conducted according to guidelines established by the council.

F. Any peace officer whose certification has been revoked by the Council may file an appeal under the provisions of the Administrative Procedures Act under R.S. 49:964.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, amended LR 25:

§4741. Training Centers

A. Each training center will be subject to a comprehensive performance review by the council once every four years.

B. Each training center will be monitored at least annually to ensure compliance with the council's training standards. C

Each training center shall transmit to the POST Council a schedule of POST certifiable training being conducted. The

training schedule shall be submitted no later than the Friday preceding the date on which the training is to be conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, amended LR 25:

Michael A. Ranatza
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Peace Officers—Training and Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that implementation of the proposed rules will increase annual expenditures by approximately \$260,000. The La. Commission on Law Enforcement was appropriated \$260,000 in FY99 to implement Act 108 relative to requirements for standards and training of peace officers. The proposed rules increase the number of basic training hours for peace officers, add procedures for pre-academy training and provide for performance monitoring of accredited training centers. Approximately \$127,000 will be used to acquire two additional FTE to monitor the training centers and one additional FTE to coordinate curriculum development relative to the number of basic training hours. This amount includes related equipment and operating expenses. The agency estimates that \$133,000 will be used to reimburse local law enforcement agencies for updated firearms training.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that implementation of the proposed rules will have little of 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)

The proposed amendments will raise the minimum standards for peace officer training in Louisiana. There are no estimated costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition as a result of these proposed amendments. These rules may affect employment of peace officers in the public sector. These peace officers will now be required to receive additional training hours in order to be certified. The minimum training hours for basic peace officers will be raised to 320 hours. The minimum number of hours for POST certified correctional officers will be reduced to 230 hours. There will be no effect on peace officers (private security officers) in the private sector.

Michael A. Ranatza
Executive Director
9901#47

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Elderly Affairs

FY 1998-99 State Plan on Aging
(LAC 4:VII.1307)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend LAC 4:VII.1307, the FY 1998-1999 Louisiana State Plan on Aging. This rule change is in accordance with the *Code of Federal Regulation*, 45 CFR 1321.19 "Amendments to the State Plan." The purpose of this rule change is to change LAC 4:VII.1307.E.1.g, Special Provisions, from "The state Long Term Care Ombudsman Program will be supplemented with Title III-B funds and disbursement of funds to local entities will follow the same method of allocation used since FY 1990." to "The state Long Term Care Ombudsman Program will disburse program funds in an equitable manner", becoming effective April 20, 1999.

The FY 1998-1999 Louisiana State Plan on Aging was adopted and published by reference in the September 20, 1997 issue of the Louisiana Register, Volume 23, Number 9. The full text of the State Plan may be obtained by contacting the GOEA at the address below or the Office of the State Register at 1051 North Third Street, Room 512, Baton Rouge, LA 70802, telephone (504) 342-5015.

Title 4

ADMINISTRATION

PART VII. Governor's Office

Chapter 13. State Plan on Aging

§1307. Special Provision

A. - E.1.f. ...

g. The state Long Term Care Ombudsman Program will disburse program funds in an equitable manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1307 (October 1993), repealed and promulgated LR23:1146 (September 1997), amended LR 25:

Inquires concerning the proposed amendment to the State Plan on Aging may be directed in writing to the Governor's Office of Elderly Affairs, Attention Karen J. Ryder, P.O. Box 80374, Baton Rouge, LA 70898-0374.

The Governor's Office of Elderly Affairs will conduct a public hearing to receive comments on the proposed amendment to the State Plan on Thursday February 25, 1999, at the Office of Elderly Affairs Conference Room, 412 North Fourth Street, Baton Rouge, LA 70802, at 1:30 p.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. The GOEA will receive written comments until 4:00 p.m. February 25, 1999.

Paul F. "Pete" Arceneaux, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: FY 1998 -99 State Plan on Aging

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not result in additional costs or savings to state or local governmental units. The proposed rule updates language in the Governor's Office of Elderly Affairs State Plan relative to the Long Term Care Ombudsman Program. The State Plan currently contains language pertaining to the distribution of funds to local entities utilizing 1990 methodology which is no longer consistent with current policies of the agency. The proposed rule replaces this language with updated language specifying that the Long Term Care Ombudsman Program will disburse funds in an equitable manner which is consistent with current practice. The proposed rule will not affect the total amount of funds to be disbursed by the Long Term Care Ombudsman Program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will not result in additional cost or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to affect competition and employment.

Paul F. "Pete" Arceneaux
Executive Director
9901#032

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Elderly Affairs

FY 1998-99 State Plan on Aging
(LAC 4:VII.1317)

In accordance with Louisiana Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend LAC 4:VII.1317, the FY 1998-1999 Louisiana State Plan on Aging, effective April 20, 1999. This rule change is in accordance with the Code of Federal Regulation, 45 CFR 1321.19 "Amendments to the State Plan," and 45 CFR 1321.35 "Withdrawal of area agency designation" (Vol. 53. Number 169 pages 33769 and 33770). The purposes of this rule change are: (1) to reverse the designation of the Governor's Office of Elderly Affairs as the Area Agency on Aging for the Planning and Service Area (PSA) of Calcasieu parish; (2) to designate Calcasieu parish as the Planning and Service Area; and (3) to designate Calcasieu Council on Aging, Inc. as the Area Agency on Aging for the Calcasieu PSA.

The FY 1998-1999 Louisiana State Plan on Aging was adopted and published by reference in the September 20, 1997 issue of the *Louisiana Register*, Volume 23, Number 9. The full text of the State Plan may be obtained by contacting the GOEA at the address below or the Office of the State Register at 1051 North Third Street, Room 512, Baton Rouge, LA 70802, telephone (504) 342-5015.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 13. State Plan on Aging

§1317. Area Agencies on Aging

Area Agency on Aging	Planning and Service Area (Parishes Served)
Allen COA	Allen
Beauregard COA	Beauregard
Bienville COA	Bienville
Bossier COA	Bossier
Caddo COA	Caddo
CAJUN Area Agency on Aging (AAA)	Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion
Calcasieu COA	Calcasieu
Caldwell COA	Caldwell
Cameron COA	Cameron
Capital Area Agency on Aging (AAA)	Ascension, Assumption, East Feliciana, Iberville, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge, West Feliciana
CENLA Area Agency on Aging (AAA)	Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Winn
Claiborne COA	Claiborne
DeSota COA	DeSota
East Baton Rouge COA	East Baton Rouge
Jefferson COA	Jefferson
Jefferson Davis COA	Jefferson Davis
Lafourche COA	Lafourche
Lincoln COA	Lincoln
Livingston COA	Livingston
Madison COA	Madison
Morehouse COA	Morehouse
Natchitoches COA	Natchitoches
North Delta (AAA)	East Carroll, Franklin, Jackson, Richland, Tensas, Union
New Orleans COA	Orleans
Ouachita COA	Ouachita
Plaquemines COA	Plaquemines
Red River COA	Red River

Sabine COA	Sabine
St. Bernard COA	St. Bernard
St. Charles COA	St. Charles
St. James AAA	St. James
St. John COA	St. John
St. Tammany COA	St. Tammany
Terrebonne COA	Terrebonne
Vernon COA	Vernon
Webster COA	Webster
West Carroll COA	West Carroll

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated LR 23:1146 (September 1997), amended LR 24:1110 (June 1998), LR 25:

Inquires concerning the proposed amendment to the State Plan on Aging may be directed in writing to the Governor's Office of Elderly Affairs, Attn: Ms. Karen J. Ryder, Box 80374, Baton Rouge, LA 70898-0374.

The Governor's Office of Elderly Affairs will conduct a public hearing to receive comments on the proposed amendment to the State Plan on Friday February 26, 1999, at the Office of Elderly Affairs Conference Room, 412 North Fourth Street, Baton Rouge, LA 70802, at 1:30 p.m.. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. The GOEA will receive written comments until 4 p.m. February 26, 1999.

Paul F. "Pete" Arceneaux, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: State Plan on Aging**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not result in additional costs or savings to state or local governmental units. The proposed rule redesignates the Governor's Office of Elderly Affairs as the Area Agency on Aging (AAA) for Calcasieu parish and designates the Calcasieu Council on Aging, Inc. as the AAA for Calcasieu parish PSA.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The AAA's receive Title III funds to cover the additional cost to develop and administer an area plan on aging. The Calcasieu Council on Aging has been contracting with the Governor's Office of Elderly Affairs to administer services in Calcasieu parish PSA. The Calcasieu Council on Aging will directly receive these administrative funds as the designated AAA.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to affect competition and employment. The Calcasieu Council on Aging will Administer the Title III funds through the area plan.

Paul F. "Pete" Arceneaux Robert E. Hosse
Executive Director General Government Section Director
9901#051 Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Elderly Affairs**

GOEA Policy Manual Revision
(LAC 4:VII.1171-1199, 1215-1221,
1225, 1227, 1233 and 1237)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual effective April 20, 1999. The purpose of the proposed rule change is to update existing policies. The policies are used by decision makers responsible for administering programs and services for the elderly. This rule complies with the Older Americans Act (Public Law 89-73), 45 CFR Part 1321, and LA R.S. 40:2802, 46:932 and 46:1608.

Preamble

Forty-five CFR 1231.11 requires GOEA to develop and enforce policies governing all aspects of programs operated under the Older Americans Act, whether operated directly by the State agency or under contract. LA R.S. 46:932 (8) requires GOEA to adopt and promulgate rules and regulations deemed necessary to implement the provisions of Chapter 7 of the Louisiana Revised Statutes. The policies, rules and regulations must be developed in consultation with other appropriate parties in the State. Accordingly, GOEA convened an ad hoc task force in October 1997. The task force is composed of individuals from throughout the State, representing area agencies on aging, parish councils on aging and other service providers. The task force's mission is to review proposed rule changes and recommend additional/alternative rules to enhance the development of service delivery systems for older Louisianans. To date, the Task Force has completed twenty-eight Sections of the GOEA Policy Manual.

Final rules concerning §1237, Long Term Care Assistance Program, §1231, Senior Community Service Employment Program, and §1239, Elderly Protective Services Program were published in September 1998. Final rules concerning §1229, Long Term Care Ombudsman Program and §1223, Older Americans Act Title III-C Nutrition Program, were published in October 1998. The proposed rule changes cover Sections 1171-1199, 1215-1221, 1225, 1227, 1233 and 1237. The Louisiana Executive Board on Aging has had an opportunity to review and comment on these changes.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1171. Scope of Requirements

A. This Subchapter outlines the requirements that full service providers must meet to receive federal and/or state funds through the Governor's Office of Elderly Affairs (GOEA). These requirements will serve as the basis for proposal/program evaluation by the State and area agencies on aging and for the monitoring and assessment of full service supportive and/or nutrition services providers and state-funded senior center operators, including Parish Councils on Aging.

B. A "full service provider" is one that administers a service in its entirety. A full service provider may either:

1. perform all functions necessary to deliver a service using its own staff; or

2. subcontract with one or more separate entities to perform a single function or a combination of related functions that are essential to service delivery (e.g., assessment and screening of participants, client tracking, vehicle maintenance, food preparation, meals delivery, etc.). The entity with whom the full service provider subcontracts is considered a "component service provider."

C. The term "full service provider" also applies to area agencies on aging authorized to deliver services directly as set forth in Subsection 1143 (B) of this manual.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.17 and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1173. Advisory Role of Older Persons to Full Service Providers

A. Full service providers shall have written policies aimed at achieving participation by older adults who will:

1. inform and advise the governing body and program administrator about participant and community needs;

2. advise the governing body by making recommendations about agency operations and program;

3. represent the participants to inform and advise the governing body and staff on specific issues and problems; and/or

4. provide feedback about participant satisfaction with current services and activities.

B. Full service providers may have advisory committees for a variety of special or ongoing purposes, such as fund raising, designing of facilities or program planning. The relationship of such committees to the staff and governing body should be clearly explained.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.17 and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1175. Administrative and Personnel Responsibilities

A. Administrative Responsibilities

1. The governing body of a full service provider shall designate a chief administrator/director and delegate to him or her responsibility for the overall management of the service or program. A full service provider's administrative roles and responsibilities shall be clearly defined.

a. The chief administrator/director is responsible for:

- i. development of a work plan;
- ii. planning and program development;
- iii. evaluation of program and operation;
- iv. resource development and fund raising;
- v. fiscal management and budgeting;
- vi. supervision of day-to-day operation;
- vii. community relations;
- viii. involvement of older adults in planning and operation;
- ix. personnel management;
- x. training and staff development; and
- xi. reviewing and reporting to governing body and others, as appropriate, on program, operation, facility, and equipment emergency arrangements.

b. These responsibilities may be delegated and shared as appropriate.

c. When a full service provider is part of a larger agency, the chief administrator/director shall have a defined relationship with:

- i. the larger agency's governing body;
- ii. the larger agency's administrative staff;
- iii. any relevant advisory committee of the larger agency or governing body; and
- iv. any other entity within the larger agency or governing body with responsibility for the full service provider.

4. In a multi-site operation, there shall be a manager on site (site manager) with clearly defined responsibilities for the program, day-to-day operation and other duties as delegated. The relationship of the site manager to the chief administrator/director and the governing body shall be clearly defined.

B. Personnel Responsibilities

1. Staffing

a. There shall be a sufficient number of personnel to implement the activities and services planned to meet the full service provider's goals and objectives, and to ensure adequate staffing for the number of persons served and the frequency of service provided.

b. A full service provider shall have a staffing pattern that clearly defines the positions necessary to implement the full service provider's goals and objectives and specifies appropriate relationships among all levels of administration and supervision.

c. A full service provider shall make use of human resources in the community to supplement its personnel by making written agreements with other agencies for mutual referrals, shared staff, and collocation of services.

d. Ethnic and racial makeup of full service providers' staff should reflect the ethnic and racial makeup of the community's older adults in order to encourage their participation.

e. Staff shall be competent to meet job description requirements and provide quality services.

f. Full service provider staffs shall create an atmosphere that acknowledges the value of human life, affirms the dignity and self-worth of the older adult, and maintains a climate of respect, trust, and support. Within this atmosphere, staff creates opportunities for older adults to apply their wisdom, experience, and insight, and to exercise their skills.

g. Full service providers staff shall encourage participants' personal growth by:

- i. developing warm, friendly relationships;
- ii. respecting individual needs, interests, rights, and values;
- iii. encouraging responsible assumption of obligations;
- iv. assisting with personal problems and coping skills; and
- v. supporting participant involvement in decision making.

2. Staff Supervision and Training

a. A full service provider shall have a formal system of staff supervision for paid and volunteer personnel to help improve their performance, develop their abilities, and ensure staff-participant relationships. Supervision shall include regular individual conferences and staff meetings.

b. A full service provider shall have a development program for paid and volunteer staff to encourage participation in educational and training opportunities that will enhance their skills and job performance.

3. Personnel Policies, Practices and Procedures

a. Policies governing personnel administration, rights, and responsibilities shall be established by the governing body and maintained as a matter of record.

b. Personnel policies shall be written in a handbook or other suitable form and provided to staff, governing body, and, as appropriate, other agencies. Procedures and criteria in at least the following areas should be included:

- i. recruitment, hiring, probation, dismissal;
- ii. insurance;
- iii. leave, vacation, holidays, other benefits;
- iv. retirement;
- v. grievances and disciplinary actions;
- vi. performance appraisal and promotion;
- vii. salary ranges and increases;
- viii. staff development and training;
- ix. channels for staff communication with management;
- x. family leave, if agency meets Family Medical Leave Act (FMLA) requirements;
- xi. protection from discrimination based on age, race, sex, sexual preference, disability, and religious preference; and
- xii. protection from sexual harassment.

c. Hiring practices shall be consistent with requirements of funders and of government laws and regulations.

d. Each employee's performance shall be evaluated regularly, according to an established procedure. Performance appraisals should include:

- i. a written performance appraisal based on objective and job-related criteria;
- ii. review of the appraisal in a face-to-face interview; and
- iii. opportunity for written dissent to be part of the personnel record.

4. Volunteers

a. A full service provider should attempt to recruit and involve volunteers of all ages from service, civic, and religious organizations and from the general community.

b. The relationship between paid and volunteer workers shall be clearly defined and understood by all staff.

c. Written policies governing volunteers should include:

- i. a system of recruitment;
- ii. clear definition of volunteer responsibilities;
- iii. orientation, training, opportunities for sharing skills, learning new skills, and for accepting new responsibility;
- iv. a channel for volunteer input into program implementation, development, and planning;
- vi. opportunity for public recognition of volunteer contributions;
- vii. ongoing formal and informal performance appraisal; and
- viii. a formal method of termination and grievance procedures.

5. Job Descriptions

a. There shall be a written job description for each staff and volunteer position.

b. Each job description shall state at a minimum:

- i. position title;
- ii. qualifications;
- iii. duties and responsibilities;
- iv. scope of authority; and
- v. lines of communication for supervision and reporting.

c. Each staff member and volunteer shall be given a copy of his or her job description, and it must be discussed at the time of employment or job assignment.

d. Management shall annually review each job description with staff and revise it as appropriate.

6. Emergency Arrangements

a. Emergency arrangements shall be made by the administrator, in consultation with the fire department and other relevant agencies, for dealing with personal emergencies at the service delivery site and on trips, such as:

- i. serious illness or injury that occurs at the service delivery site;
- ii. fire;
- iii. power failure; and
- iv. natural disaster.

b. A written record of any emergency shall be filed with the administrator/director, whether or not there is apparent injury or property damage.

c. Written emergency plans shall be posted in conspicuous places throughout the service delivery site. Plans shall include:

- i. telephone numbers for fire department, police, ambulance, hospital emergency room, local civil defense or disaster office;
- ii. steps to be taken in case of an emergency;
- iii. location of first aid and other supplies; and
- iv. evacuation instructions.

d. Periodic drills shall be scheduled and carried out:

- i. fire drills shall be held at least four times a year; and

ii. first aid training and drills, including such techniques as cardiopulmonary resuscitation and the Heimlich maneuver, shall be held regularly.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.17 and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1177. Fiscal Responsibility

A. Fiscal Planning

1. A full service provider's financial operation shall be based on sound planning and prudent management of all resources.

2. Budget preparation shall be a part of the annual planning process and shall anticipate the resources needed to fulfill the full service provider's goals, and objectives.

3. The budget shall be prepared by administrative staff or governing body, as appropriate, with input from program staff and participants, and be approved by governing body.

4. The budget shall be based on a thorough consideration of the resources required to carry out each of the full service provider's activities and services.

5. The budget shall specify and allocate all anticipated income, from all sources, and all projected expenditures related to services regardless of the funding source.

6. The budget shall be used as a fiscal control tool to monitor income and use of resources.

7. Procedures shall be established and records kept so that a cost analysis of services and activities can be made and the results used in the planning process and in evaluation.

B. Accountability and Reporting

1. Regular fiscal reports disclosing the full service provider's full financial condition shall be prepared. These reports shall include balance sheets, statements of income and expense, and cumulative and comparative budgets.

2. Fiscal reports shall be submitted to the governing body or its designated authority and made available to participants, funders, and the public on request.

3. The audit required by GOEA shall be performed annually by an independent accountant.

4. The audit report shall be submitted to the governing body and the administrator and made available to funders, participants, and the public on request.

5. Reports related to income provided for special purposes (grants, contracts, special projects, etc.) shall be prepared and submitted to funding sources as required.

6. In-kind contributions shall be recorded and documented in conformance with income source regulations.

C. Legal and Administrative Requirements

1. A full service provider's financial operation shall conform to all applicable legal and administrative requirements.

2. Budgeting, accounting, and financial reporting practices shall conform to generally accepted accounting principles.

3. Budgeting, accounting, and financial reporting practices shall conform to requirements of a full service provider's funding agencies.

D. Management Procedures

1. Accurate and complete bookkeeping records shall be maintained.

2. A full service provider or its governing body shall have an internal control system consisting of written procedures for:

a. centralized cash control, including recording cash receipts and expenditures, depositing cash, separation of cash handling from record-keeping, and periodic checks of petty cash and other cash funds;

b. purchasing, including an approval system for all purchases, names of persons authorized to contract or purchase for the full service provider, obtaining competitive price quotes or bids, and separation of ordering and receiving functions;

c. storage and inventory control;

d. bonding of persons who handle the full service provider's funds.

E. Risk Protection

1. A full service provider shall have a risk protection program (insurance coverage) that:

a. meets legal requirements;

b. is adequate to preserve the full service provider's assets;

c. compensate claimants for reasonable claims.

2. Administrative staff or governing body shall procure information on insurance needs and available types of protection. Such information should be reviewed by the governing body or its designated authority at least annually.

3. A full service provider shall have insurance policies covering:

a. loss from fire, theft, vandalism, and natural disasters;

b. general liability;

c. vehicle insurance;

d. liability for use of private automobiles by paid or volunteer staff on official business;

e. liability for acts of volunteers;

f. workers' compensation.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7) and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1179. Target Groups

A. Preference shall be given to providing services to older individuals with greatest economic and older individuals with greatest social need, with particular attention to low-income minority individuals.

1. The term *greatest economic need* is defined as the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census.

2. The term *greatest social need* means the need caused by non-economic factors, which include physical and mental disabilities, language barriers, cultural or social isolation including that caused by racial or ethnic status, which restrict an individual's ability to perform normal daily tasks or threaten his capacity to live independently.

B. Full service providers shall attempt to provide services to low-income minority individuals at least in proportion to the number of low-income minority older persons in the population services by the provider.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(a)(2)(E), CFR 1321.11 and 45 CFR 1321.65.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1181. Facility Standards

A. Visibility

1. Full service providers shall make use of facilities that are visible and easily recognized. The facility's external appearance should be attractive and appropriate to its use.

2. Identification signs shall be attractive, and in large lettering, shall make clear the purpose of the facility.

B. Location

1. Full service providers shall make use of facilities that promote effective program operation and that provide for the health, safety, and comfort of participants, staff and community. The following factors should be given consideration in choosing a service delivery site:

a. accessibility to the maximum number of people;

b. proximity to other services and facilities ;

c. convenience to public or private transportation, or location within comfortable walking distance for participants;

d. parking space;

e. avoidance of structural barriers and difficult terrain;

f. safety and security of participants and staff.

2. When appropriate, a full service provider shall make arrangements to offer activities and services at various locations in its service area.

C. Accessibility

1. Access to and movement within the facility shall be barrier-free for handicapped older adults, in conformance with the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and other applicable law.

2. There should be adequate parking space available to accommodate participants and staff. Parking areas shall be clearly marked with space reserved for handicapped vehicles and multi-passenger vehicles.

D. Design

1. The facility should be comfortable and conducive to participant use.

a. Heating, cooling, and ventilation system(s) should permit comfortable conditions without excessive fan noise and drafts.

b. Illumination levels in all areas should be adequate, and to the extent possible, shall compensate for visual losses through use of natural light, window location, and higher levels of illumination.

c. Transmission of sound should be controlled through acoustical ceiling surfaces, partitions between activity areas, and isolation of noisy rooms such as the kitchen.

d. If smoking is permitted, space shall be provided for smokers that does not interfere with the comfort of nonsmokers.

2. The facility should be adequate in size and designed to house contract/subcontract related activities and services, in accordance with applicable laws and regulations.

a. Spaces for group activities should be large enough to avoid crowding and shall be located and designed so that meetings and other programs may be conducted without undue interruption.

b. Areas for counseling and other individual services should be designed to provide privacy.

c. There should be sufficient private office space to permit staff and volunteers to work effectively and without undue interruption.

d. There should be adequate storage space for program and operating supplies.

e. There shall be sufficient toilet facilities, equipped for use by mobility-limited persons.

f. The design should ease participants' movement throughout the facility and encourage involvement in activities and services.

E. Equipment and Furnishings

1. Equipment to be used by participants should be selected for comfort and safety and shall compensate for visual and mobility limitations and other physical disabilities. For example, when possible, the facility shall be equipped with the following:

a. extra wide, lightweight, automatic doors;

b. hallways wide enough for wheel chairs;

c. handrails in hallways;

d. ramps; and

e. bathrooms designed for frail or disabled individuals (easily used: sinks, soap dispensers, toilet flush controls, toilet paper dispensers, grab bars, door hardware not requiring tight grasping or twisting).

2. Furniture arrangement shall promote interaction, permit private conversation and facilitate observation of activities by participants.

3. The facility should be decorated and furnished in an appealing manner.

F. Responsibility

1. A full service provider's governing body shall have full responsibility for full service provider's facilities, grounds, and equipment. This responsibility may be delegated to a committee or to a designated staff member.

2. Participants should be involved in the design of facilities and selection of equipment and furniture.

3. The governing body or its designee, should seek advice from individuals with expertise in designing facilities and selecting equipment for use by older people and from full service providers with experience in these areas.

4. When a facility is rented or shared, when space in several facilities is used, or when a full service provider rents its own space, the governing body shall have written agreements with all relevant parties, concerning: time of use, maintenance and repairs, equipment use, security and safety, liability, and insurance. Such facilities shall conform to all requirements of these standards.

G. Safety

1. The facility shall be designed, constructed, and maintained in compliance with all applicable federal, state, and local building safety and fire codes, including the Occupational Safety and Health Act.

2. The full service provider shall make arrangements, as necessary, for the security of participants in the facility.

3. The facility shall be free of hazards, such as high steps and steep grades. Where necessary, arrangements shall be made with local authorities to provide safety zones for those arriving by motor vehicle and adequate traffic signals for pedestrian crossings.

4. The exterior and interior of the facility shall be safe and secure, with adequate lighting, paved exterior walkways, all stairs and ramps equipped with handrails.

5. Bathrooms and kitchens shall include safety features appropriate to their special uses (such as nonskid floors, bacteria-free carpets, kitchen fire extinguishers).

6. Procedures for fire safety shall be adopted and shall include provision for fire drills, inspection and maintenance of fire extinguishers and smoke detectors, periodic inspection, and training by fire department personnel.

H. Maintenance and Upkeep

1. There shall be sufficient maintenance and housekeeping personnel to assure that the facility is clean, sanitary, and safe at all times.

2. The full service provider should contract for repair, maintenance, regular painting, and redecorating services as appropriate.

3. Maintenance and housekeeping shall be carried out on a regular schedule and in conformity with generally accepted standards, without interfering with programs.

4. Provision shall be made for frequent, safe, sanitary disposal of trash and garbage. The full service provider shall adhere to local laws regarding recycling.

5. Provision shall be made for regular pest control.

6. Sufficient budget shall be provided for equipment maintenance, repair, and replacement.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.5(e) and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1183. Civil Rights

A. Civil Rights Act of 1964

1. All full service providers shall provide written

assurance of compliance with Title VI and VII of the Civil Rights Act of 1964. Public agencies must have an affirmative action program that complies with federal regulations containing required standards for a merit system of personnel administration.

2. Participants (Title VI). Full service providers shall ensure that no distinction is made on the grounds of race, color, sex or national origin in providing to individuals any services, financial and/or other benefits financed in whole or part using federal and/or state funds.

3. Employees (Title VII). Full service providers shall not discriminate against employees or applicants due to age, race, color, religion, sex or national origin.

B. Rehabilitation Act of 1973, as Amended

1. All full service providers shall take affirmative action pursuant to Executive Order 11246 and the Rehabilitation Act of 1973, as amended, to provide for a positive posture in employing and upgrading persons without regard to race, color, religion, sex, age, national origin or handicap. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer; recruitment; layoff or termination; compensation; and selection for training.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.5(c) and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1185. Political Activity

Full service providers shall not use federal and/or state funds to urge any elector to vote for or against any candidate or proposition on an election ballot nor shall such funds be used to lobby for or against any proposition or matter having the effect of law being considered by the legislature or any parish or municipal governing authority. This provision shall not prevent the normal dissemination of factual information relative to a proposition on any election ballot or a proposition or matter having the effect of law being considered by the legislature or any parish or municipal governing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932 and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1187. Outreach and Coordination Requirements

A. Outreach

1. Each full service provider shall conduct outreach activities that assure that the maximum number of eligible individuals may have an opportunity to receive services.

B. Coordination

1. Each full service provider shall ensure that services funded through GOEA are coordinated with other appropriate services in the community, and that these services do not constitute an unnecessary duplication of services provided by other sources.

2. Each full service provider shall assist participants in taking advantage of benefits under other programs.

3. With the consent of the older person, or his or her representative, each full service provider shall bring to the attention of appropriate officials for follow-up, conditions that place the older person, or the household of the older person, in

imminent danger.

4. Where feasible and appropriate, each full service provider shall arrange for the availability of services to older persons in weather related emergencies.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(5)(B), Section 307(a)(13)(E), Section 307(a)(20)(A), Section 307(a)(17), Section 306(a)(6)(H), and Section 306(a)(6)(K), CFR 1321.11 and 45 CFR 1321.65.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1189. Records and Reports

A. Participant Records and Reports

1. Full service providers shall establish and maintain appropriate participant records, using standardized forms to obtain information about the participants and record the participants' involvement in activities conducted under the contract/subcontract. These records may include:

- a. background (general) information (for example: name, address, sex, birth date, emergency phone numbers);
- b. interests and skills;
- c. attendance information;
- d. volunteer activities; and
- e. case reports, including referral and follow-up instructions.

2. These records shall be used to:

- a. help serve individual participants appropriately;
 - b. prepare reports;
 - c. meet planning, evaluation, and legal requirements;
- and
- d. maintain accountability to GOEA.

3. Participant records and reports shall be reviewed periodically by appropriate staff, to evaluate their adequacy and continued usefulness and to assure that they protect the confidentiality of participants.

B. Program Records and Reports

1. Full service providers shall maintain a system of records on activities conducted under the contract/subcontract in order to document current operations, meet funding requirements, promote community support, and guide planning. These records shall include at least the following:

- a. descriptions of services and activities provided;
- b. unduplicated rosters of persons served;
- c. number of persons served, by type of service and activity;
- d. number of units (for example, units of referrals, meals served, interview hours, socialization hours) of each type of service and activity; and
- e. participant assessment of services and activities.

2. Program reports shall be submitted to the funding agency in the form prescribed.

3. Full service providers should prepare an annual report providing an overview of the full service provider's program and operation, and shall distribute it or make it available to governing body, staff, volunteers, funders, public officials, and the general public.

4. Program records and reports shall be reviewed periodically by appropriate staff, to evaluate the records' adequacy and continued usefulness.

C. Administrative Records and Reports

1. Administrative records and reports shall be established and maintained on the full service provider's total operation to satisfy legal requirements and for use as a management tool. These shall include:

- a. written records of all policies set forth by the governing body;
- b. minutes of governing body meetings;
- c. minutes of advisory committee meetings, including records of major decisions;
- d. personnel records;
- e. fiscal records;
- f. correspondence;
- g. safety, fire inspection, public health inspection, and related reports;
- h. accident reports and procedures;
- i. statistical information;
- j. annual reports, reflecting fiscal and program activity of the center; and
- k. historical records, clippings, and other documents.

2. An employee record shall be maintained, and should contain at least the following:

- a. application for employment, including a résumé;
- b. letters of reference;
- c. job description;
- d. letters of employment;
- e. record of compensation, promotion, and salary adjustments;
- f. evaluation and commendations;
- g. disciplinary actions; and
- h. correspondence on personnel matters.

3. Administrative records and reports shall be reviewed periodically by appropriate staff to evaluate their adequacy and continued usefulness.

4. An appropriate policy, consistent with administrative and legal requirements, should be established for retaining records and reports.

D. Confidentiality

1. All records and reports that contain personal or other sensitive information about participants, staff, and volunteers shall be kept confidential.

2. Procedures to ensure confidentiality shall include:

- a. provision for secure storage of confidential records, whether in paper or computer files;
- b. limiting access to confidential records to persons with a demonstrable need to know the information they contain;
- c. protecting the identity of individuals in reports or other documents through use of such devices as coding or generalization of information;
- d. obtaining permission of the individual through a release of information form before data contained in confidential records is released to persons or agencies outside the full service provider.

E. Staff Training

1. Full service providers shall provide training for staff and volunteers who are assigned to record keeping that includes:

a. information about the full service provider's system of record keeping (for example, types of records and reports and how they are used);

b. training for computer-based information systems, if used by the full service provider; and

c. instruction about procedures to ensure confidentiality of participants and staff.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(4) and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1191. Confidentiality and Disclosure of Information

A. No information about an older person, or obtained from an older person by a full service provider or the state or area agencies, shall be disclosed by the provider or agency in a form that identifies the person without the informed consent of the person or of his or her legal representative, unless the disclosure is required by court order, or for program monitoring by authorized Federal, State, or local monitoring agencies. Such consent must be in writing and shall be dated within one year of the release of information.

B. Nothing in this Section shall preclude the reporting of suspected abuse or neglect under the Louisiana Adult Protective Services Law.

C. The confidentiality protections concerning any complainant or resident of a long term care facility as prescribed in Section 712 of the Older Americans Act and §1229 of this Manual shall be strictly adhered to.

D. A legal assistance provider is not required to reveal any information that is protected by attorney client privilege.

E. All information containing client information no longer needed for record keeping purposes shall be shredded, burned or disposed of in a form in which identifying information cannot be extracted.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.11 and CFR 1321.51.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1193. Financial Resource Development

A. A full service provider's administrative staff and governing body shall seek additional resources to increase program support and ensure program funding.

B. Fund-raising activities conducted by contractor/subcontractor-sponsored groups (for example, advisory committees, RSVP, etc.) shall be approved by the governing body.

C. If any fees for services, supplies, and activities are charged, the fees shall be reasonable and equitable.

D. Membership dues shall not be allowed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7) and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1195. Contributions for Older Americans Act Title III Services

A. Opportunity to Contribute

1. Each Older Americans Act Title III service provider shall:

- a. provide each participant an opportunity to voluntarily contribute to the cost of the service;
- b. protect the privacy of each older person with respect to his or her contributions;
- c. establish appropriate procedures to safeguard and account for all contributions; and
- d. use all supportive and nutrition services contributions collected in each parish to expand supportive and nutrition services respectively in that parish.

B. Contribution Schedules

1. Older Americans Act Title III service providers may develop a suggested contribution schedule for services provided. In developing a contribution schedule, the provider shall consider the income ranges of older persons in the community and the provider's other sources of income.

C. Failure to Contribute

1. Means tests may not be used for any service supported with Older Americans Act funds. A service provider shall not deny any older person a service because the older person will not or cannot contribute to the cost of the service.

D. Contributions as Program Income

1. Contributions made by Older Americans Act Title III participants are considered program income. Such funds shall be used in accordance with §1197.C of this manual.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(13)(C), and 45 CFR 1321.67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1197. Program Income

A. General

1. GOEA contractors and subcontractors are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with contract funds, from the sale of merchandise or items fabricated under the contract, and from payments of principal and interest on loans made with contract funds. Program income does not include interest on contract funds, rebates, credits, discounts, refunds, etc. and interest earned on any item.

B. Definition of Program Income

1. *Program Income* refers to gross income received by the contractor or subcontractor directly generated by a contract supported activity, or earned only as a result of the contract agreement during the contract period. "During the contract period" is the time between the effective date of the contract and the ending date of the contract reflected in the final financial report. Costs incidental to the generation of program income may be deducted from gross income to determine program income.

2. Voluntary contributions made by Older Americans Act Title III participants and state funded senior participants are considered program income.

3. Income from royalties and license fees for copyrighted material, patents, and inventions developed by a contractor or

subcontractor is program income only if the revenue is specifically identified in the contract agreement as program income.

C. Use of Program Income

1. Older Americans Act Title III Program Income

a. Each service provider shall use program income to expand supportive and nutrition services respectively.

2. Senior Center Program Income

a. All state funded senior center program income other than that which is designated for Older Americans Act services shall be used to expand senior center activities.

3. Service providers shall follow the addition alternative in 45 CFR 92.25(g)(3). Program Income shall be added to the Federal and State funds committed to the contract agreement. However, state and federal funds can only be applied to net expenditures. Net expenditures are calculated by subtracting all program income collected from total allowable costs.

4. All program income collected must be used for current period expenses unless GOEA authorizes deferral to a later period.

5. Proceeds from the sale of real property purchased using program income will be handled in accordance with the provisions of 45 CFR 92.31 and 92.32 as provided in §1199 of this Manual.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7), 45 CFR 1321.67, 45 CFR 1321.73 and 45 CFR 92.25.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 12:366 (June 1986), amended LR 25:

§1199. Property Control and Disposition

A. Applicability

1. This Section applies to all property, as defined below, purchased wholly or partially with Governor's Office of Elderly Affairs (GOEA) funds. In instances where GOEA policy is more restrictive than Federal Regulations, Title 45, Part 74, Subpart O, GOEA policy supersedes. Any provision of this Section which conflicts with above federal regulations is void. This Section is intended to provide guidance for the most common property situations and to specify areas where GOEA policy is more restrictive than Title 45, Part 74, Subpart O. Any property definitions or situations not covered by this Section are subject to Title 45, Part 74, Subpart O.

B. Definitions

Equipment—tangible personal property with an acquisition cost equal to or greater than \$250 and a useful life of more than one year. All such property must be tagged.

Personal Property—property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence such as patents, copyrights, etc.).

Property—real property, personal property, equipment, and supplies.

Real Property—land, including improvements, structures, and appurtenances thereto.

Recipient—all recipients, including sub-recipients, of GOEA funds.

Supplies—tangible personal property other than equipment.

C. Required Records and Reporting for Property Inventory

1. All recipients are required to maintain and update property records which include the following information on all tangible property which meets the definition of equipment in Subsection B of this Section:

- a. identification or tag number;
- b. manufacturer's serial or model number;
- c. description of property;
- d. location of property;
- e. acquisition cost and date;
- f. source of funds or program(s); and
- g. information on replacement, transfer, or disposition.

2. The updated inventory must be submitted annually to GOEA with final fiscal reports of the contract/grant period. This inventory must reflect all property purchased with GOEA funds under the current or previous contract(s). If property was disposed of during the current period, such property and related disposition information must be included on this inventory. Subsequent inventories will exclude such property.

D. ...

E. Disposition or Transfer of Property/Equipment for Continuing Grants/Programs

1. Request for Instructions

a. Real Property

i. When real property is no longer needed for the originally authorized purpose, the recipient will request disposition instructions from GOEA as stated in Paragraph 2 of this Subsection.

b. Equipment

i. Equipment with a unit acquisition cost of less than \$5,000 may be retained, sold, or otherwise disposed of without prior approval from GOEA. Any proceeds from the sale of such equipment must be properly documented, accounted for, and applied as other revenue for GOEA funded or supported programs.

ii. Equipment with a unit acquisition cost equal to or greater than \$5,000 or real property can be disposed of only with prior approval from GOEA. When such property becomes surplus to the recipient's need or is no longer to be used for GOEA funded or supported programs, the recipient must submit a written request for disposition instructions as stated in Paragraph 2 of this Subsection.

2. Disposition Instructions

a. The written request for disposition instructions must include the following information:

- i. property description (tag number, acquisition cost and date, source of funds used to purchase, check number and date, etc.);
- ii. condition of property (odometer reading, repairs needed, working order, etc.); and
- iii. reason for disposal.

b. Disposition instructions from GOEA will provide for one of the following alternatives.

i. Transfer of Title. Recipient will transfer title and property to GOEA or designee. Recipient will be paid for any transfer fees or related costs. If property was not purchased wholly with GOEA funds, recipient will be paid for the

non-GOEA share based on current market value. AAA's may transfer equipment covered by this part within their PSA provided the above transfer guidelines are followed.

ii. Sale of Property. Recipient will sell property in a manner which provides for competition to the extent practicable and which maximizes the return, and proceeds (or GOEA share) will be remitted to GOEA. Recipient may retain the greater of \$100 or 10 percent of proceeds from the sale of equipment to cover disposition costs. Recipient may retain a portion of proceeds from sale of real property to pay for actual and reasonable selling expenses. Recipient may request permission to retain net proceeds from the sale of equipment and to apply such proceeds toward allowable costs of GOEA funded or supported programs.

iii. Retention of Title. Recipient may retain the property after remitting to GOEA an amount equal to the current market value of the property GOEA share of such value if property was not purchased wholly with GOEA funds.

F. Disposition of Property Upon Expiration or Termination of Grant/Program

1. Specific disposition instructions for all property other than supplies must be obtained from GOEA.

2. The following guidelines apply for unused supplies exceeding \$5,000 in total aggregate fair market value and not needed for any program currently funded by GOEA.

a. Recipient may retain such supplies and remit to GOEA its share of the market value.

b. Recipient may sell such supplies and remit to GOEA its share of proceeds from the sale.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7), 45 CFR Subtitle A, Part 92.31 and 92.32 and 45 CFR Part 74 Subpart O.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 18:610 (June 1992), amended LR 25:

§1215. Service Recipient Priorities and Eligibility Requirements

A. Persons who are 60 years of age or older and their spouses may receive services provided using Older Americans Act and state senior center funds. No one is entitled to services by virtue of age alone. GOEA's Uniform Intake and Assessment Instrument shall be used to determine the order in which older individuals will be served. Persons age 60 and over who are frail, homebound by reason of illness or incapacitating disability, or otherwise isolated, shall be given priority in the delivery of services.

B. As stated in §1179 of this manual, preference shall be given to providing services to older individuals with greatest economic and older individuals with greatest social need, with particular attention to low-income minority individuals. Service providers shall attempt to provide services to low-income minority individuals at least in proportion to the number of low-income minority older persons in the population services by the provider.

C. Means tests shall not be used for any service supported with Older Americans Act Title III funds or state senior center funds. Moreover, service providers shall not deny any older

person a service because the older person will not or cannot contribute to the cost of the service.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 102(29), Section 102(30), Section 305(a)(2)(E), Section 306(a)(1), Section 307(a)(24), and 45 CFR 1321.65 and 1321.69.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1217. Uniform Definitions of Services for the Aging

A. Uniform definitions of supportive and nutrition services issued by the Governor's Office of Elderly Affairs GOEA shall be employed by all providers.

B. These definitions shall be used for record keeping, accounting and reporting purposes, as prescribed in this manual and through other requirements issued by GOEA.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 211 and Section 307(a).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), Amended LR 11:1078 (November 1985), amended LR 25:

§1219. Title III-B Supportive Services and Senior Centers

A. Part B of Title III of the Older Americans Act authorizes the distribution of federal funds to the State Agency on Aging by formula for supportive services and senior centers. Funds authorized under Title III-B are for the purpose of assisting the State and its area agencies to develop or enhance for older persons comprehensive and coordinated community based systems as described in 45 CFR 1321.53(b) throughout the State.

B. GOEA shall award Title III-B funds to designated area agencies according to the formula determined by the State Agency. All funds awarded to area agencies under Title III-B are for the purpose of assisting area agencies to develop or enhance comprehensive and coordinated community based systems for older persons in, or serving, communities throughout the planning and service area. Except where a waiver is granted by the State agency, area agencies shall award these funds by contract to community services provider agencies and organizations.

C. The term "supportive services" refers to those services listed in Sec. 321(a) of the Older Americans Act.

D. Title III-B funds may be used for the acquisition, alteration, or renovation of existing facilities, including mobile units, and, where appropriate, construction of facilities to serve as multipurpose senior centers.

E. Title III-B funds may be used for the purpose of assisting in the operation of multipurpose senior centers and meeting all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 321 and 45 CFR 1321.63.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1221. Contributions for Supportive Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), repealed LR 25:

§1225. Legal Assistance Program

A. Purpose

1. The purpose of Legal Assistance is to assist older individuals in securing their rights, benefits and entitlements. To the extent practicable, legal assistance provided under Title III must be in addition to any legal assistance already being provided to older persons in the planning and service area.

B. ...

C. Eligibility Requirements for Providers

1. An area agency must contract with a provider which is either:

a. an organization which receives funds under the Legal Services Corporation Act; or

b. an organization which has a legal services program or the capacity to develop one.

2. An area agency may award funds to the legal assistance provider(s) who most fully meets the following standards:

a. has staff with expertise in specific areas of law affecting older persons, such as public benefit, institutionalization and alternatives to institutionalization;

b. - d. ...

e. demonstrates the capacity to provide legal assistance in the principal language spoken by clients in areas where a significant number of clients do not speak English as their principal language;

f. has offices and/or outreach sites which are convenient and accessible to older persons in the community or has the capacity to develop such sites;

g. demonstrates the capacity to provide legal assistance in a cost effective manner; and

h. demonstrates the capacity to obtain other resources to provide legal assistance to older persons.

D. Provider Objectives

1. - 2. ...

3. if not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Service Corporation projects in the PSA in order to concentrate the use of funds provided under Title III on individuals with the greatest social or economic need. In carrying out this requirement, legal assistance providers may not use a means test or require older persons to apply first for services through a Legal Services Corporation project; and

D.4. - E.2. ...

F. Case Priorities

1. An area agency on aging may set priorities for the categories of cases in order to concentrate on older persons in greatest economic or social need. Such cases should be related to income, health care, long term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.

* * *

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(15), Section 307(a)(18), and Section 731.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1227. Information and Assistance Service Requirements

A. The purpose of information and assistance is to encourage and assist older individuals to use the facilities and services available to them.

B. Definition of Information and Assistance

Information and Assistance Service—a service for older individuals that:

a. provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;

b. assesses the problems and capacities of the individuals;

c. links the individuals to the opportunities and services that are available;

d. to the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate follow up procedures; and

e. serves the entire community of older individuals, particularly older individuals with greatest social need, and older individuals with greatest economic need.

C. Each area agency on aging shall provide for information and referral assistance services in sufficient numbers to ensure that all older persons within the planning and service area covered by the area plan have reasonably convenient access to the service.

D. The Governor's Office of Elderly Affairs shall establish and maintain information and assistance services in sufficient numbers to assure that all older individuals in the State who are not furnished adequate information and assistance services under Subsection C of this Section will have reasonably convenient access to such services.

E. Information and assistance services providers shall:

1. maintain current information with respect to the opportunities and services available to older persons;

2. develop current lists of older persons in need of services and opportunities;

3. employ, where feasible, a specially trained staff to assess the needs and capacities of older individuals, to inform older persons of opportunities and services which are available, and assist older persons in taking advantage of opportunities and services; and

4. develop and maintain records of its transactions for the purpose of:

a. measuring utilization and effectiveness of its efforts;

b. identifying gaps in the service structure; and

c. assisting in state and parish planning.

F. Information and assistance service providers shall place particular emphasis on linking services available to older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction, and the caretakers of individuals with such disease or disorders.

G. In areas in which a significant number of older persons do not speak English as their principal language, service

providers shall provide information and assistance services in the language spoken by the older persons.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(9), and Section 306(a)(4) .

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:

§1233. State Funded Senior Center Operation

A. Definitions

1. A senior center is a community focal point where older adults come together for services and activities that reflect their experience and skills, respond to their diverse needs and interests, enhance their dignity, support their independence, and encourage their involvement in and with the center and the community. Senior centers offer services and activities within the center and link participants with resources offered by other agencies. Senior center programs consist of a variety of individual and group services and activities. Senior centers also serve as a resource for the entire community for information on aging, support for family care givers, training professional and lay leaders and students, and for development of innovative approaches to addressing aging issues.

2. A senior center satellite is an activity site which meets less than minimum standards required for a senior center and is under the direction of a Governor's Office of Elderly Affairs (GOEA) Contractor/Subcontractor.

B. Mission of a Senior Center

1. The mission of a Senior Center is to promote the physical, emotional, and economic well-being of older adults and to promote their participation in all aspects of community life.

C. Participant Eligibility

1. All Louisiana residents who are at least 60 years old, and their spouses are eligible to receive services through state funded senior centers.

D. Minimum Requirements for State Funded Senior Center

1. A state funded senior center shall serve as a focal point for older adults in the community. It shall be a source of public information, community education, advocacy, and opportunities for older adults.

2. A state funded senior center shall be staffed by qualified personnel, paid and volunteer, capable of implementing its program.

3. A state funded senior center must have or provide access to the following services:

a. nutrition services;

b. transportation;

c. information and assistance;

d. education and enrichment; and

e. wellness.

4. A state funded senior center shall serve an average of at least 20 participants per day or a lesser number that is determined to be cost effective and is approved by the State Agency.

5. A state funded senior center shall operate at least four hours a day, four days a week (except in sites located in rural areas where such frequency is not feasible and a lesser frequency is approved by the State Agency).

E. State Funded Senior Center Standards

1. A state funded senior center shall have written goals, objectives and action plans for each contract period. Goals and objectives must be based on the senior center mission and on the needs and interests of older adults in its community or service area. These statements shall be used to guide the character and direction of the senior center's operation and program.

2. A state funded senior center shall participate in cooperative community planning and establish service delivery arrangements with other community agencies and organizations.

3. A state funded senior center shall have clear administrative and personnel policies and procedures that contribute to the effective management of the senior center's operation.

4. A state funded senior center shall provide a broad range of group and individual activities and services to respond to the needs and interests of older adults in its community or service area.

5. A state funded senior center shall have appropriate and adequate arrangements to evaluate and report on its operation and program.

6. A state funded senior center shall practice sound fiscal planning and management, financial record keeping, and reporting as required by GOEA.

7. A state funded senior center shall keep complete records required to plan, operate, and review its program.

8. A state funded senior center shall use facilities that promote effective program operation and that provides for the health, safety, and comfort of participants, staff and community.

9. A state funded senior center shall provide a written description of available services and activities for distribution to potential participants.

F. Distribution of State Funds for Senior Centers

1. Funds appropriated by the state legislature for the operation of senior centers will be included in the total budget of the Governor's Office of Elderly Affairs (GOEA) and allocated to the designated recipients for distribution. Designated recipients may request GOEA to channel their state funds for senior centers through the area agency on aging. Such requests must be accompanied by a resolution adopted by the recipient's governing body.

2. Each Parish Council on Aging Board of Directors shall review and provide a written resolution recommending approval/disapproval of each request for state funding for the operation of new senior centers within their respective parishes. In reviewing requests for state funding, PCOAs shall follow the guidance issued by GOEA.

3. GOEA shall provide an opportunity for a hearing and issue a written decision to any applicant for state senior center funding whose request is not recommended by the Parish Council on Aging Board of Directors within their respective parishes. Hearings will be conducted in accordance with GOEA hearing procedures. GOEA shall be alert to conflicts of interest or noncompetitive practices that may restrict or eliminate competition among state funded senior center operators. GOEA shall approve requests for funding

whenever, in the judgement of GOEA, the applicant demonstrates that a new facility is needed and that the proposed facility meets the criteria in Subsection (G) of this Section.

4. GOEA shall incorporate all new senior centers recommended for state funding in the State agency's annual budget request. Funding must be appropriated by the State Legislature.

G. Criteria for State Funded Senior Center Providers

1. - 4. ...

5. capacity for securing additional community resources, whether cash or in kind, to increase program support and to assure ongoing program funding;

6. - 7. ...

H. Limitation on Use of Facilities

1. State funded senior centers may not be used for sectarian worship. This does not preclude counseling by ordained ministers or fellowship meetings for those who would voluntarily participate. No participant may be forced to participate in any religious activity or denied the benefit of services due to his personal beliefs.

I. Nepotism

1. Staff Relationships

a. State funded senior centers may not employ immediate family members in direct supervisory relationships. Immediate family is defined as follows: Husband, Wife, Father, Father-in-law, Mother, Mother-in-law, Brother, Brother-in-law, Sister, Sister-in-law, Son, Son-in-law, Daughter, Daughter-in-law, Grandfather, Grandmother.

2. Purchases

a. State funded senior centers may neither obligate nor expend funds administered by the Governor's Office of Elderly Affairs for the purchase or rental of goods, space, or services if any of the following persons has a substantial interest in the purchase or rental unless it is documented that it is the cheapest or sole source, and the person who has an interest plays no part in making the decision:

i. a member of the governing body;

ii. the director or assistant director;

iii. any employee who has responsibilities for the procurement of goods, space or services; or

iv. anyone who is a member of the immediate family of a board member or employee referred to above.

J. Senior Center Program Income

1. State funded senior center program income shall be used in accordance with Paragraph (2) of Subsection (C) of §1197 of this manual.

K. Monitoring and Assessment of State Funded Senior Centers

1. GOEA shall monitor all state funded senior centers through on-site visits and/or review of program and financial reports.

2. GOEA shall conduct annual assessments of all state funded senior centers operated by parish councils on aging that are designated area agencies on aging.

3. GOEA Contractors shall conduct annual assessments of each senior center operated by one of its Subcontractors. Reports of these assessments shall be submitted to GOEA annually in the form prescribed by GOEA.

4. When a state senior center funds recipient elects to contract its state senior center funds through the designated area agency on aging, the area agency shall conduct annual reviews of senior center activities and services. Reports of the annual reviews shall be submitted to GOEA in the form prescribed by GOEA.

L. Evaluations of State Funded Senior Centers

1. GOEA shall conduct an annual evaluation of state funded senior center activities and services. Results of this evaluation shall be used in the budget planning process for the next program year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932 and R.S. 43:1119.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 15:384 (May 1989), amended LR 25:

§1237. Long-Term Care Assistance Program

A. - F. ...

G. Eligibility Determinations

1. The agency shall provide written notification to each applicant found to be ineligible within thirty (30) days of receipt of application.

2. Those applicants found to be eligible will begin receiving reimbursements within thirty (30) days of receipt of application.

3. Reimbursements shall be retroactive for a maximum time period of six months prior to the date the completed application is received by the Office of Elderly Affairs.

4. Prior to making a final determination, the agency shall return applications which are incomplete or questionable (e.g., expenses reported exceed all income) for additional information.

5. Redetermination of Eligibility

a. If an applicant is determined ineligible for benefits under this program because (s)he does not meet the requirements in §1237.D.1, and the applicant's circumstances change, the applicant may reapply in accordance with §1237.F.

b. A redetermination of eligibility for this program shall be made based upon the current financial status of the applicant.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November, 1992), amended LR 19:627 (May, 1993), amended LR 25:

Written comments may be addressed to Betty N. Johnson, HCBS Director, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. A public hearing on this proposed rule will be held on February 24, 1999 at 412 North Fourth Street, Baton Rouge, LA 70802 at 10 a.m. All interested parties will be afforded an opportunity to submit

data, views, or arguments, orally or in writing, at said hearing. Written comments will be accepted until 5 p.m. February 26, 1999.

P.F. "Pete" Arceneaux, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: GOEA Policy Manual Revision**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the proposed rule change will not result in costs or savings to state or local governmental units.

The proposed rule change amends Subchapter D and Subchapter E of the GOEA Policy Manual. It updates policies that govern services provided using federal and state funds awarded through the Governor's Office of Elderly Affairs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Service providers funded under Title III of the Older Americans Act and State funded senior center operators are required to comply with all rules promulgated by GOEA. No additional costs or economic benefits are anticipated since proposed changes would make rules consistent with current practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

P.F. "Pete" Arceneaux, Jr. Robert E. Hosse
Executive Director General Government Section Director
9901#049 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Chelation Therapy
(LAC 46:XLV.6925-6933)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B), and the provisions of the Administrative Procedure Act, intends to adopt rules and regulations governing the use

of Chelation Therapy, LAC 46:XLV.6925-6933. The proposed rules are set forth below. Inquiries concerning the proposed rules may be directed in writing to Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

LAC 46:XLV.6925-6933 shall be adopted, so that, as adopted, said Sections shall read and provide as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 69. Prescription, Dispensation and Administration of Medications

Subchapter C. Chelation Therapy

§6925. Scope of Subchapter

The rules provided by §§6925-6933 govern physician prescription, dispensation, administration or other use of chelating therapy for the treatment of any medical condition.

AUTHORITY NOTE: Promulgated in accordance with RS 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§6927. Definitions

A. As used in §§6925-6933, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Administer—with respect to a medication provided or supplied by a physician for use by a patient, the term *administer* means directly or through an agent to give, provide or supply for immediate oral ingestion, insertion or application by the patient, or to insert, apply, or inject intravenously, intramuscularly, subcutaneously, intrathecally or extrathecally.

Board—the Louisiana State Board of Medical Examiners.

Chelating Agent—any medication which is a parenteral or oral metal-binding and bioinorganic agent including, but not limited to, Dimercaprol (dimercaptopropanol), Ethylenediaminetetracetic acid (EDTA or edetate), or its salts, calcium disodium edetate, disodium edetate, calcium disodium versenate, Penicillamine (d-dimethyl cysteine or Cupramine) and Succimer (meso-dimercaptosuccinic acid or DMSA).

Chelation Therapy—a therapy to restore cellular homeostasis through the use of a parenteral or oral chelating agent. Chelation therapy is not an experimental therapy when utilized in the treatment of heavy metal intoxication or any other condition for which it is indicated by express approval of the United States Food and Drug Administration (FDA).

Dispense—with respect to a drug, chemical or medication, the term *dispense* means to give, provide or supply for later parenteral or oral ingestion, insertion, application, injection, or other use.

Drug—is synonymous with, *medication*, as defined in §6927.

Medication—any chemical, potion, compound, mixture, suspension, solution or other substance or material, natural or synthetic, recognized and listed in the official United States Pharmacopoeia, which is lawfully produced, manufactured,

sold or provided and intended and approved for medical diagnostic, therapeutic or preventative use in and by humans and which, by provision of state or federal law or regulation, may be dispensed only by, or pursuant to the prescription of, a licensed practitioner.

Physician—a person lawfully entitled to engage in the practice of medicine in the state of Louisiana, as evidenced by a current license or permit duly issued by the board.

AUTHORITY NOTE: Promulgated in accordance with RS 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§6929. Limitations on Use

A physician shall not prescribe, dispense, administer, supply, sell, give or otherwise make available to any person, any chelating agent for the treatment or prevention of any medical condition for which it is not indicated by express approval of the FDA.

AUTHORITY NOTE: Promulgated in accordance with RS 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§6931. Exemption of Controlled Scientific Studies

The prohibition on the use of chelation therapy prescribed by §6929 shall not be applicable to a physician engaged in the conduct of a scientific study of the efficacy of a chelation agent in the treatment of a medical condition for which such agent is not expressly approved by the FDA, provided that such physician is employed by or otherwise officially affiliated with an accredited medical school located in the state of Louisiana, such study is conducted under the auspices of such school and in accordance with all applicable state and federal laws or regulations, including those applicable to an FDA investigational new drug application, and the interim and final results of such study are furnished to the board in writing.

AUTHORITY NOTE: Promulgated in accordance with RS 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

§6933. Effect Of Violation

Any violation of or failure of compliance with the provisions of this Subchapter, §§6925-6931, shall be deemed a violation of R.S. 37:1285(A)(12), (13), (14) and (30), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with RS 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, Louisiana, 70190-0250 (630 Camp Street, New Orleans, Louisiana, 70130). Written comments must be submitted to and received by the Board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public

hearing must be made in writing and received by the Board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Chelation Therapy**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed rules will result in any additional costs to the Board of Medical Examiners.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed rules will have any effect on the Board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
It is not anticipated that the proposed rules will have a material effect on costs, paperwork or workload of physicians who may employ chelation therapy in a manner affected by the proposed rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is not anticipated that the proposed rules will have any impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director
9901#028

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Dispensing of Medications—Prohibitions,
Sanctions, and Registration
(LAC 46:XLV.6507 and 6513)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by R.S. 37:1261-1292 and R.S. 37:1204, intends to amend LAC 46:XLV.6507 and 6513 of its existing rules governing action against and eligibility for registration as a dispensing physician. The proposed amendments are set forth hereinafter.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLV. Medical Profession
Subpart 3. Practice**

**Chapter 65. Dispensation of Medications
Subchapter B. Prohibitions and Sanctions
§6507. Action Against Medical License**

Violation of the prohibitions set forth in §6505 shall be deemed to constitute just cause for the suspension, revocation,

refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice medicine in the state of Louisiana held or applied for by a physician culpable of such violation, or for other administrative action as the Board may in its discretion determine to be necessary or appropriate, under R.S. 37:1285(A)(6) and R.S. 1285(A)(30).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:

Subchapter C. Registration

§6513. Eligibility for Registration as a Dispensing Physician

- A. ...
- B. A physician shall be deemed ineligible for registration as a dispensing physician who:
 1. has been convicted, whether upon verdict, judgment, or plea of guilty or nolo contendere, of any crime constituting a felony under the laws of the United States or of any state, or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;
 2. has been convicted, whether upon verdict, judgment, or plea of guilty or nolo contendere, of any crime an element of which is the manufacture, production, possession, use, distribution, sale or exchange of any controlled substance or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;
 3. ...
 4. has voluntarily surrendered or had suspended, revoked or restricted, his narcotics controlled substance license, permit or registration (state or federal);
 5. has had his professional license suspended, revoked or placed on probation or restriction in any manner by the board or by any licensing authority, or who has agreed not to seek re-licensure, voluntarily surrendered, or entered into an agreement with the board or with any licensing authority in lieu of the institution of disciplinary charges or action against such license;
 6. has had an application for professional examination or license rejected or denied;
 7. has been denied, had suspended, revoked, restricted, or voluntarily relinquished, staff or clinical privileges in any hospital or other health care institution or organization;
 8. has been, or is currently in the process of being, denied, terminated, suspended, refused, limited, placed on probation or under other disciplinary action with respect to his participation in any private, state, or federal health insurance program; or
 9. has had any court determine that he is currently in violation of a court's judgment or order for the support of dependent children.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October

1987), amended LR 25:

Inquiries concerning the proposed rule amendments may be directed in writing to Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing, to the Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130). Written comments must be submitted to and received by the Board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Dispensing of Medications—Prohibitions,
Sanctions, and Registration**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated the implementation of the proposed rule amendments will result in any costs to the Board or any other state or local governmental unit. The Board does not anticipate that adoption of the proposed rule amendments will result in either an increase or reduction in workload or any additional paperwork.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed rules amendments will have any material effect on the Board's revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

It is not anticipated that the proposed rule amendments will have any material effect on costs, paperwork or workload of physicians who seek to become, or who may continue to be registered as, dispensing physicians.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

It is not anticipated that the proposed rule amendments will have any impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director
9901#029

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Ownership of Records
(LAC 46:LXXXV.701)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.701 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

The proposed amendment to §701 establishes that the records of a veterinary facility are the sole property of that facility, and when a veterinarian leaves salaried employment therein, the departing veterinarian shall not copy, remove, or make any subsequent use of those records. Language found in §701.B.1 and §701.B.2 exists in current rule. Section 701.B.3 includes the only substantive change to the current rule.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXXXV. Veterinarians**

Chapter 7. Veterinary Practice

§701. Record Keeping

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

B. Maintenance, Ownership, and Release of Records

1. Patient records shall be maintained for a period of five years and are the responsibility and property of the veterinarian. The veterinarian shall maintain such records and shall not release the records to any person other than the client or a person authorized to receive the records for the client.

2. The veterinarian shall provide any and all records as requested by the board to the board. Failure to do so shall be considered unprofessional conduct.

3. The records of a veterinary facility are the sole property of that facility, and when a veterinarian leaves salaried employment therein, the departing veterinarian shall not copy, remove, or make any subsequent use of those records. The copying, removal, or any subsequent use of those records by the departing veterinarian shall be considered a violation of the rules of professional conduct within the meaning of R.S. 37:1526.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 16:225 (March 1990), LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:969 (August 1997), LR 24:941 (May 1998), LR 25:

Interested parties may submit written comments to Charles B. Mann, executive director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on February 25, 1999. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on February 25, 1999, at 9 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801.

Charles B. Mann
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ownership of Records**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated \$100). The veterinary profession will be informed of this rule change via the board's regular newsletter or other direct mailings, which are already a budgeted cost of the board.
- 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. There will be no revenue impact as no increase in fees will result from the amendment.
- 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 nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on employment and competition.

Charles B. Mann
Executive Director
9901#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

Memorandum of Understanding
Between the Department of Health and Hospitals and
the Capital Area Human Services District FY 98/99
(LAC 48:I.Chapter 27)

In accordance with R.S. 46:2661 et seq., as enacted by Act 54 of the first Extraordinary Session of the 1996 Legislature, the Department of Health and Hospitals, Office of the Secretary proposes to adopt the following rule.

**Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 1. General**

**Chapter 27. Memorandum of Understanding Between
the Department of Health and Hospitals
and the Capital Area Human Services
District**

§2701. Introduction

This agreement is entered into by and between Department of Health and Hospitals, hereinafter referred to as DHH, and Capital Area Human Services District, hereinafter referred to as CAHSD, in compliance with LA RS 46:2661 through 46:2666 as well as any subsequent legislation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 25:

§2703. Purpose and General Agreement

A. The Department of Health and Hospitals is authorized by law to provide for the direction, operation, development and management of programs of community-based mental health, mental retardation/developmental disabilities, alcohol and substance abuse, public health and related activities for eligible consumers in Louisiana.

B. The legislation authorizes CAHSD to provide services of community-based mental health, developmental disabilities, alcohol and substance abuse, public health and related activities for eligible consumers in the CAHSD, which includes East Baton Rouge, West Baton Rouge, Ascension, Iberville, and Pointe Coupee parishes; and to assure that services meet all relevant federal and state regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 25:

§2705. Designation of Liaisons

A. The primary liaison persons under this agreement are:

1.	DHH	Deputy Secretary
2.	CAHSD	Executive Director

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 25:

§2709. Services To Be Delivered

A. In order to provide a broad spectrum of coordinated public services to consumers of OMH, OCDD, OADA, OPH and for the District Administration, the CAHSD will assume programmatic, administrative and fiscal responsibilities for including, but not limited to, the following:

- 1. OCDD Community Support;
- 2. Mental Health Services consistent with the State Mental Health Plan, as required under the annual Mental Health Block Grant Plan;

3. Outpatient Treatment (Non-Intensive) OADA;
4. Community Based Residential Services OADA;
5. Intensive Outpatient Treatment/Day Treatment OADA;
6. Non-Medical/Social Detoxification OADA;
7. Primary Prevention;
8. Healthy Community Regional Program OPH;
9. HIV/AIDS Prevention Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 25:

§2711. Responsibilities of Each Party

A. CAHSD accepts the following responsibilities:

1. to perform the functions which provide community-based services and continuity of care for the diagnosis, prevention, detection, treatment, rehabilitation and follow-up care of mental and emotional illness.
2. to be responsible for community-based programs and functions relating to the care, diagnosis, eligibility determination, training, treatment, case management of developmentally disabled and autistic persons as defined by the MRDD law.
3. the CAHSD shall work closely with the OCDD in managing the waiver functions, including placement of individuals and maintenance of the waiting list;
4. to promote, support and provide community based planning of broad health issues through the Healthy Communities Strategic Planning model;
5. the CAHSD will provide for the gradual assumption of appropriate community public health functions;
6. to perform community-based functions related to the care, diagnosis, training, treatment, and education of alcohol or drug abusers and primary prevention of alcohol and drug abuse;
7. to perform community-based functions related to the care, diagnosis, training, treatment and education of gambling abuse;
8. to maintain services in community-based mental health, developmental disabilities, and substance abuse at least at the same level as the state maintains similar programs;
9. to ensure that the quality of services delivered is equal to or higher than the quality of services previously delivered by the state;
10. to perform human resources functions necessary for the operation of the CAHSD;
11. to be responsible for the provision of any function/service, reporting or monitoring, mandated by the Block Grant Plan of each respective program office;
12. provide systems management and services data/reports in a format and content as that required of all regions by each DHH program office. Specific content of required information sets will be negotiated and issued annually through program office directives;
13. utilize ARAMIS, MIS, SPOE and any other required DHH/program office systems to meet state and federal reporting requirements;

14. human resource staffing data will be available for on-site review;
 15. maintain and support Single Point of Entry (SPOE) state standard;
 16. provide for successful delivery of services to persons discharged from state facilities into the CAHSD service area by collaborative discharge planning;
 17. provide in-kind or hard match resources as required for acceptance of federal grant or entitlement funds utilized for services in the CAHSD as appropriately and collaboratively applied for;
 18. Make available a list of all social and professional services available to children and adults through contractual agreement with local providers.
 19. CAHSD will work with Office of Alcohol and Drug Abuse to assure that all requirements and set asides of the Substance Abuse Block Grant are adhered to in the delivery of services;
 20. The CAHSD shall develop and utilize a five year strategic plan as required by Act 1465;
 21. The CAHSD will provide HIV/AIDS Prevention Program services.
- B. DHH retains/accepts the following responsibilities:
1. operation and management of any in-patient facility under jurisdiction of the DHH except that the CAHSD shall have authority and responsibility for determination of eligibility for receipt of such inpatient services (single point of entry function) which were determined at the regional level prior to the initiation of this Agreement .
 2. operation, management and performance of functions and services for environmental health;
 3. operation, management and performance of functions related to the Louisiana Vital Records Registry and the collection of vital statistics;
 4. operation, management and performance of functions and services related to laboratory analysis in the area of personal and environmental health;
 5. operation, management and performance of functions and services related to education provided by or authorized by any state or local educational agency;
 6. monitoring this service agreement, assuring corrective action through coordination with CAHSD and reporting failures to comply to the Governor's office;
 7. operation, management and performance of functions for pre-admission screening and resident review process for Nursing Home Reform;
 8. operation, management and performance of functions for enrollment and monitoring of Medicaid targeted case management;
 9. DHH, each quarter, will share with CAHSD information regarding, but not limited to, program data, statistical data, and planning documents that pertain to the CAHSD;
 10. DHH retains all Prior Authorization functions for Mental Health Medicaid Services;
 11. DHH shall be responsible for transferring \$30,000 to CAHSD for the purposes of contract attorney services. DHH

will provide legal support and representation in judicial commitments to the Department.

C. Joint Responsibilities:

1. to determine if community-based mental health, developmental disabilities, substance abuse, and public health services are delivered at least at the same level by CAHSD as the State provides for similar programs in other areas. Performance indicators shall be established. Such indicators will measure extensiveness of services, accessibility of services, availability of services and, most important, quality of services and/or outcome measures. The CAHSD will not be required to meet performance indicators which are not mandated for state-operated programs in these service areas, and which were not previously collected by Region 2.

2. CAHSD's progress toward achieving outcomes which meet or exceed those realized by DHH-operated programs in the affected geographic region shall be measured by comparing the CAHSD data on results to baseline statistics reported by Regional DHH programs for the year prior to July 1, 1997. Specific outcome measurements/performance indicators to be compared will be jointly agreed upon by CAHSD and DHH;

3. the CAHSD shall work closely with the OCDD in transitioning individuals from Pinecrest and Hammond Developmental Centers to the district ensuring individualized planning, the implementation of chosen life activities and needed supports, and the development of circles of support for the individual to ensure relationship building and community participation;

4. CAHSD will work with the Office of Alcohol and Drug Abuse to assure the key performance indicators are the same for CAHSD and Office of Alcohol and Drug Abuse;

5. CAHSD will work with the Office of Alcohol and Drug Abuse to assure there is a clear audit trail for linking alcohol and drug abuse funding and staffing to alcohol and drug abuse services;

6. CAHSD and Region II, OPH managers will collaborate to perform community based functions which provide services and continuity of care for education, prevention, detection, treatment, rehabilitation and follow up care related to personal and community health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 25:

§2713. Reallocation of Resources/Staff and Financial Agreements

A. For FY98-99, DHH agrees to transfer financial resources to the direction and management of the CAHSD.

B. The CAHSD will submit to DHH an annual budget request for funding of the cost for providing the services and programs for which the CAHSD is responsible. The format for such request shall be consistent with that required by the Division of Administration and DHH. The request shall conform with the time frame established by DHH. CAHSD Executive Director will meet with the Office of the Secretary to discuss all new and expanded program request prior to presentation to DOA.

C. The CAHSD shall operate within its budget allocation and for services required by this MOU, report budget expenditures to DHH.

D. Revisions of the budget may be made upon written consent between the CAHSD and DHH and, as appropriate, through the Legislative Budget Committee's BA-7 process. In the event any additional funding is appropriated and received by DHH that affects any budget categories for the direction, operation, and management of the programs of mental health, mental retardation/developmental disabilities, substance abuse services, and public health, and related activities for any other such DHH entities or regions, the CAHSD will receive additional funds on the same basis as other program offices.

E. In the event of a budget reduction, CAHSD will receive a proportionate reduction in its budget.

F. The CAHSD shall assume all financial assets and/or liabilities associated with the programs transferred.

G. CAHSD shall be responsible for repayment of any funds received which are determined ineligible and subsequently disallowed.

H. DHH agrees to maintain the level of support from the Office of the Secretary and from the Office of Management and Finance which is consistent with the current level of support now provided to the regional OCDD, OMH, and OADA and OPH offices. These supports include:

1. Communication and Inquiry;
2. Internal Audit;
3. Environmental Consultant;
4. Fiscal Management;
5. Information Services;
6. Facility Management;
7. Budget, Contract and Lease Management;
8. Research and Development;
9. Materials Management;
10. Appeals, Human Rights, and Staff Development/Training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 25:

§2715. Joint Training and Meetings

CAHSD, through its staff, will participate in DHH and other programmatic training, meetings and other activities as agreed upon by CAHSD and DHH. In a reciprocal manner, CAHSD will provide meetings, training sessions, and other activities that will be available for participation by DHH staff as mutually agreed upon by the CAHSD and the DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 25:

§2717. Special Provisions

A. The CAHSD agrees to abide by all applicable Federal, State, and Parish law regarding nondiscrimination in service delivery and/or employment of individuals because of race, color, religion, sex, age, national origin, handicap, political beliefs, disabled veteran, veteran status, or any other non-merit factor.

B. The CAHSD shall maintain a property control system of all movable property in the possession of the CAHSD that was formally under the control of DHH, and of all additional property acquired.

C. For purposes of purchasing, travel reimbursement, and securing of social service/professional contracts, the CAHSD shall utilize established written bid/RFP policies and procedures. Such policies and procedures shall be developed in adherence to applicable statutory and administrative requirements. The CAHSD shall provide informational copies of such policies and procedures to DHH as requested until CAHSD develops their own policies and procedures they will use the current DHH policies.

D. The CAHSD shall abide by all court rulings and orders that affect DHH and impact entities under the CAHSD's control, and shall make reports to DHH Bureau of Protective Services all applicable cases of alleged abuse, neglect, exploitation, or extortion of individuals in need of protection in a format prescribed by DHH.

E. CAHSD shall be responsible for providing services to citizens of East & West Feliciana Parishes at a level at least equal to services rendered by DHH Region II prior to July 1, 1997. This will also include any new services provided and funded by CAHSD through DHH subsequent to July 1997.

F. If OADA is successful in establishing an Inpatient Gambling program, this will not be managed by CAHSD since this is a statewide program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 25:

§2719. Renewal/Termination

A. This agreement will cover the period of time from July 1, 1998 to June 30, 1999.

B. This agreement will be revised on an annual basis, as required by law, and will be promulgated through the Administrative Procedure Act. The annual agreement shall be published in the state register each year in order for significant changes to be considered in the budget process for the ensuing fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 25:

Comments regarding the proposed rule will be accepted until February 22, 1999 and should be addressed to John Lacour, Deputy Secretary, Department of Health and Hospitals, Box 629, Bin 2, Baton Rouge, LA 70821-0629.

David W. Hood
Secretary
Department of Health and
Hospitals

Dr. Jan Kasofsky
Executive Director
Capital Area Human Services
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Memorandum of Understanding Between the Department of Health and Hospitals and the Capital Area Human Services District FY 98/99

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Administrative cost associated with the Capital Area Human

Services District (CAHSD) will be paid by the Department of Health and Hospitals (DHH) for FY98-99 in accordance with the annual service agreement. Estimated cost of printing the Notice of Intent and the Rule is \$920.00.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenues collections of state or local governmental units.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)

There is no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

- IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

David W. Hood
Secretary
9901#067

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

CommunityCARE Emergency Services

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 R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Financing currently operates the primary care case management program for Medicaid recipients known as CommunityCARE, which was originally established by Emergency Rule published in the *Louisiana Register*, Volume 18, Number 10, renewed in Volume 19, Number 2, and adopted as a final rule in Volume 19, Number 5. The Bureau proposes to amend the procedures for emergency care provided to CommunityCARE recipients by adopting the prudent layperson criteria for emergency medical condition and the emergency medical services definition contained in Section 4704 of the Balanced Budget Act of 1997 (BBA '97), in order to comply with increased protections required for Medicaid managed care enrollees.

This rule establishes a definition for emergency medical services that may be provided in a hospital emergency room for defined emergency medical conditions. Reimbursement for emergency room services which meet the definition of emergency medical services below will be made by Medicaid when provided to CommunityCARE recipients whose condition meets the definition of an emergency medical condition below. The primary care physician will approve such services whether the recipient contacted the primary care physician prior to receipt of emergency services or not. Treatment at the emergency room provided to a

CommunityCARE enrollee whose condition does not meet the definition of an emergency medical condition specified below will not be authorized by the primary care physician or reimbursed by Medicaid. Authorization for care subsequent to stabilization requires prior authorization by the CommunityCARE enrollee's primary care physician.

Emergency medical services with respect to a CommunityCARE enrollee are defined as furnished by a provider that is qualified to provide such services under Medicaid and consist of covered inpatient and outpatient services that are needed to evaluate or stabilize an emergency medical condition.

An emergency medical condition is defined as a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4704 of the Balanced Budget Act of 1997 concerning provision of emergency medical services to Medicaid recipients enrolled in the Medicaid program known as the CommunityCARE Program.

Emergency medical services with respect to a CommunityCARE enrollee are defined as furnished by a provider that is qualified to provide such services under Medicaid and consist of covered inpatient and outpatient services that are needed to evaluate or stabilize an emergency medical condition. The CommunityCARE enrollees who present themselves for emergency medical services shall receive an appropriate medical screening to determine if an emergency medical condition exists. A triage protocol is not sufficient to be an appropriate medical screening. If the medical screening does not indicate an emergency medical condition exists, the treating hospital/physician shall refer the CommunityCARE enrollee back to his/her primary care physician for treatment.

Interested persons may submit written comments to the following address: Thomas D. Collins, 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 proposed rule.

A public hearing on this proposed rule is scheduled for February 26, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. 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: CommunityCARE Emergency Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase state program costs by approximately \$75,077 for SFY 1998-99, \$112,374 for SFY 1999-2000, and \$112,784 for SFY 2000-2001. Included in SFY 1998-99 is \$60 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$177,539 for 1998-99, \$266,372 for SFY 1999-2000, and \$267,856 for SFY 2000-2001. Included in SFY 1998-99 is \$60 for federal expenditures for promulgating this proposed rule as well as the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Qualified Medicaid providers and participating Medicaid hospitals rendering emergency room treatment to CommunityCARE recipients for emergency services will be reimbursed by Medicaid in the amounts of approximately \$252,496 for SFY 1998-99, \$378,746 for SFY 1999-2000, and \$380,640 for SFY 2000-2001 if the emergency medical condition meets the criteria as defined by the Balanced Budget Act of 1997 (BBA).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9901#077

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

Emergency Medical Services—Emergency Medical
Response Vehicles Certification (Sprint Vehicles)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 32:1 et seq. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 297 of the 1997 Regular Session of the Louisiana Legislature mandates the Department of Health and Hospitals to inspect and certify emergency medical response (EMR) vehicles. In addition, the Department is authorized to deny, probate, suspend, or revoke certifications; to provide for penalties; and to provide for related matters. Therefore, the

Department proposes to adopt the following rule to establish certification requirements for emergency medical response vehicles.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following provisions to establish certification requirements for all emergency medical response vehicles.

An *emergency medical response vehicle* is defined as a marked emergency vehicle with full visual and audible warning signals operated by a certified ambulance service; the primary purpose of which is to respond to the scene of a medical emergency to provide emergency medical stabilization or support, or command control and communication, but which is not an ambulance designed or intended for the purpose of transporting a victim from the scene to a medical facility regardless of its designation. Included, but not limited to are such vehicles designated as “sprint car”, “quick response vehicle”, “special response vehicle”, “triage trucks”, “supervisor units”, and other similar designations. Fire apparatus and law enforcement patrol vehicles that carry first aid or emergency medical supplies and respond to medical emergencies as part of their routine duties shall not be considered emergency medical response vehicles.

A. Qualifications of Vehicle. The vehicle may be on either an automobile or truck chassis, have four or more wheels and must have the following:

1. Emergency Warning Lights. These lights shall be mounted as high and as widely spaced laterally apart as practicable. There must be two alternating flashing red lights on the front of the vehicle mounted at the same level. There must be two alternating flashing red lights on the rear of the vehicle mounted at the same level. These front and rear lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight. Exceptions:

a. Any authorized emergency vehicle may be equipped with a large revolving red light on the roof instead of alternating flashing red lights on the front. This light must be discernible in all directions and have sufficient intensity to be visible at five hundred feet in normal sunlight.

b. Authorized emergency medical response vehicles of organized fire companies may be equipped with a large red and white light on the roof encased in a clear dome, instead of the large red light on the roof. This light must be discernible in all directions and have sufficient intensity to be visible at five hundred feet in normal sunlight.

2. Audible Warning Signals. Each emergency medical response vehicle must have a siren, exhaust whistle, or bell capable of giving an audible signal sufficient to warn motorists of its approach (audible up to five hundred feet).

3. External markings:

a. All numbering and lettering shall be reflective.

b. The unit number shall be displayed in numerals three (3) inches high or greater on the rear and both sides of the vehicle.

c. The agency’s name shall appear on both sides of the vehicle in lettering 3 inches high or greater, or with a logo that is 6 inches or greater in size.

d. The agency’s name or logo shall appear on the trunk or rear door in lettering 3 inches high. Agency logos must be specific to the agency and on file with the Department

of Health and Hospitals.

e. The vehicle’s markings shall indicate its designation as an emergency medical response vehicle such as “Sprint Car, Supervisor, Chief, Special Services”, etc. No markings on the vehicle may imply that it is an ambulance.

B. Equipment and Supplies

1. All vehicle units must have a Federal Communication Commission (FCC) typed acceptable two way radio communication system (day-to-day communications). The emergency medical response vehicle dispatch center(s) and/or point(s) of dispatch must be capable of interactive two-way radio communications within all of the service’s defined area:

a. All dispatch center(s) and/or point(s) of dispatch shall have a proper FCC licensed radio system or an agreement with an FCC licensed communication provider that does not allow for transmission by unauthorized users, but will provide the capability for the dispatcher, with one transmission, to be heard simultaneously by all of its ambulances/emergency medical response units within that defined geographic service area.

b. Services that utilize multiple transmitters/tower sites shall have simultaneous communications capabilities with all units utilizing a specific transmitter/tower site.

c. In addition to the day-to-day communication system a two way radio with disaster communications capability which must be either:

i. VHF Band - Hospital Emergency Activation Radio (HEAR) system 155.340 MHz with carrier squelsh, ENCODER optional; or

ii. 800 Mhz Band - SmartNet or Smart Zone - using the ICALL or ITAC frequencies in both the repeater and simplex modes in accordance with the FCC Region 18 Public Safety Radio Communication Plan.

d. Direct communication with a physician and hospital must be conducted through:

i. HEAR; or

ii. wireless telephone; or

iii. Radio Telephone Switch Station (RTSS); or

iv. Med. System 10, etc.

2. All emergency medical response vehicles must be equipped with the following:

Fire Extinguisher with a minimum of Underwriters Laboratory rating of 10:B,C (1) (no Halon). This device should be properly secured in the vehicle	1
Triangle reflectors	1 set of three triangle
Flashlight, 2 “C” cell or larger	1
Current hazardous materials reference guide U.S. Department Of Transportation or equivalent.	1
Hard Hat and Safety goggles (ANSI Z 37.1) or	1 per crew member
National Fire Protection Association approved fire helmet with face shield; and	1 per crew member
Gloves, leather or Nomex, over-wrist	1 pair per crew member

3. All emergency medical response vehicles must have basic life support medical supplies as follows:

Portable suction unit	1
Appropriate refill canister/liners for suction unit (if required)	1
Suction tubing, wide bore (if required)	1
Rigid pharyngeal/tonsillar wide bore suction	1
Suction catheters 5 or 6 or 5/6 and 14 French (if required)	1 each
Portable oxygen cylinder - full, 2000 + psi size "D" or above	1
Variable flow regulator and an oxygen wrench	1
Adult non-rebreather oxygen masks with tubing	1
Pediatric non-rebreather oxygen masks with tubing	1
Nasal prongs "nasal cannulas", adult with O ₂ tubing	1
CPR mask or barrier device with one-way valve or filter	1
Adult bag valve mask devices with oxygen reservoirs and tubing	1 each
Pediatric bag valve mask devices with oxygen reservoirs and tubing, approximately 450 cc.; Note: Recommend no pop-off valve or make the valve inoperable	1
Oral airways - adult, child, and infant	1 each
Cervical collars - extra small/small or equivalent medium/large or equivalent	1 each
Cervical immobilization device - head blocks, other commercial head immobilization device or firm padding to improvise for such a device (such as towels or blankets not used to fulfill any other requirement)	1 set
Extremity splint suitable for upper or lower extremity fracture	1
Long spinal immobilization device may be a scoop stretcher with at least three straps or other clamshell devices Note: Wood acceptable if impervious to body fluids. Disposable cardboard not acceptable	1
Clean burn sheet, individually wrapped	1
Triangular bandages	2
Sterile multi-trauma dressing, 10" x 30"	1
Sterile combine dressings, minimum 5" x 9"	4
Sterile 4" x 4" gauze pads	10 packs minimum 2 per pack

Sterile individually packed occlusive dressings, 3" x 3" or larger	2
Roller gauze, clean, at least 2 inch wide	4 rolls
Normal saline - plastic containers	1 liter
Oral Glucose - based Paste (cake icing acceptable)	Min. 12.5g
Medical adhesive tape, 1" and 2" or wider (paper tape not acceptable)	1 each
OB kit: 2 towels, a 4" x 4" dressing, umbilical tape, sterile cutting instrument, a bulb suction, clamps for the cord, sterile gloves, and a blanket	1
Unopened box aluminum foil or silver swaddler	1
Blood pressure cuff, adult and pediatric, multi-cuff kits are acceptable	1 each
Stethoscope	1 pair
EMT Shears	1
Clean, single use bite stick	1
Blanket	1
Triage Tags	25

4. All emergency medical response vehicles that are not staffed and equipped to the EMT-Paramedic level must carry an automated external defibrillator (either automatic or semi-automatic) with the appropriate lead cables and at least two sets of the appropriate disposable electrodes. If the automated defibrillator is also capable of manual defibrillation, then an appropriate lock out mechanisms (such as an access code, computer chip, or lock and key) to prevent unauthorized use of the device by those persons not authorized to manually defibrillate must be an integral part of the device.

5. All emergency medical response vehicles must carry infection control equipment as follows:

Full Peripheral Glasses (1) or Face Mask, surgical (1 set); or, face shield for splash protection (1)	1
Gloves, Non-sterile	1 box
Handwash, Commercial Antimicrobial	1 bottle or can or 12 towelettes
Sharps container, OSHA approved	1
Readily identifiable trash bags, labeled for contaminated wastes	1
Jumpsuit/gown, impervious to liquid, disposable	1 per crew member
Shoe covers, disposable	1 per crew member
Tuberculosis mask, OSHA approved	1 per crew member

6. The following must be carried by intermediate level and paramedic level emergency medical response vehicles:

All IV fluids must be in plastic bags or jugs, not glass bottles, unless medically indicated otherwise.

Dextrose 5 percent in water - 250 cc or .9 percent NACL normal saline or lactated ringer's contained in not less than 4 approved containers	1000cc plus 1 bags of I.V. fluids
Macro drip Administration Sets	1
Minidrip Administration Sets	2
Venous Tourniquet	1
IV Catheters - 22, 20, 18, 16, and 14 gauge	1 each
Antiseptic Solution pads	6
3-way stop cock	1
Extension tubing	1
Syringe with Luer-lock 30 cc minimum	1

7. The following must be carried by all paramedic level emergency medical response vehicles:

Intra osseous needles of choice	1
1 cc syringe with 1/10 cc graduates	1
3 to 6 cc syringe	1
10 to 12 cc syringe	1
Hypodermic needle, 18 to 20 Ga.	1
Hypodermic needle, 21 to 23 Ga.	1
Hypodermic needle, 25 to 27 Ga.	1
Laryngoscope handle with 1 set extra batteries and bulb or 1 disposable handle unit	1
Laryngoscope blade, Size 0 Straight or 1 each disposable handle unit	1
Laryngoscope blade, Size 1 Straight or 1 each disposable handle unit	1
Laryngoscope blade, Size 2 Straight or 1 each disposable handle unit	1
Laryngoscope blade, Size 3 Straight or Curved or 1 each disposable handle unit	1
Laryngoscope blade, Size 4 Straight or Curved or 1 each disposable handle unit.	1
Endotracheal tubes, Uncuffed, Size 3.0 or 3.5	1
Endotracheal tubes, Uncuffed, Size 4.0 or 4.5	1
Endotracheal tubes, Uncuffed, Size 5.0 or 5.5	1
Endotracheal tubes, cuffed, Size 6.0 or 6.5	1
Endotracheal tubes, cuffed, Size 7.0 or 7.5	1
Endotracheal tubes, cuffed, Size 8.0 or 8.5	1

Stylettes for ET tubes, adult and pediatric	1 each
Magill Forceps, adult and pediatric	1 each
Water soluble lubricating jelly non-cellulose containing	1 pack of 5 or 1 tube
Cardiac monitor/defibrillator with paper recorder, defib pads or gel, quick look paddles or hands off capability, chest attachment cable and pads, capable of min. 5 to 360 joules. An automatic external defibrillator may be used if it has manual override capability and all other features listed.	1
Pediatric drug dosing chart or tape to include all mandated drugs	1
Home use glucometer (FDA approved)	1
Nasogastric Tube (when use allowed) 5 Fr	1
Nasogastric Tube (when use allowed) 8 Fr	1
Nasogastric Tube (when use allowed) 14 to 18 Fr	1
DRUGS	
Albuterol inhalation solution 2.5 mg with appropriate delivery device	1
Aspirin 325 mg 5 grains	1
Atropine	3 mg
Benadryl 50 mg for IV use	1
Bretylium tosylate, 500 mg	1
Diazepam	10 mg injectable
Dopamine 200 mg minimum Vials	200 mg
Dextrose, 25 g in 50 cc	1
Epinephrine, 1:1,000 minimum 2 mg and Epinephrine 1:10,000 minimum 2 mg	4 mg min.
Lidocaine, 100 mg boluses	3
Loop diuretic e.g. furosemide 80 mg or bumetanide 2 mg	1 dose
Naloxone	2 mg
NTG spray or tablets	3 doses
Sodium bicarbonate, 44 meq min	2

Interested persons may submit written comments to the following address: Thomas D. Collins, 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 proposed rule.

A public hearing on this proposed rule is scheduled for Friday, February 26, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. 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: Certification Standards for Emergency
Medical Response Vehicles (Sprint Vehicles)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will not result in state costs. However, \$320 will be incurred in SFY 1998-99 for the state's administrative expense of promulgating this proposed rule as well as the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on federal revenue collections. There may be self generated revenue collections from an anticipated cost subject to implementation of a fee for this certification. However, the federal share of promulgating this proposed rule as well as the final rule is \$320 and will be incurred in 1998-99.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
All emergency medical response vehicles (sprint vehicles) operating in Louisiana, must comply with the certification of medical and safety equipment requirements. It is anticipated that there may be costs to providers subject to implementation of fees for certification of emergency medical response vehicles operating in Louisiana. There is insufficient data to determine the effect on emergency medical response vehicles operating in Louisiana to better project an impact.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Under this rule, emergency medical response vehicles that do not carry as part of the regular equipment the required medical and safety equipment will be reported to parish offices and may be prohibited from operating in Louisiana. There is insufficient data to determine the effect on emergency medical response vehicles operating in Louisiana to project an impact.

Thomas D. Collins
Director
9901#078

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 67—Audit of Title Insurance Agents
(LAC 37:XIII.Chapter 55)

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act, the Department of

Insurance hereby gives notice of its intent to promulgate and adopt this regulation. The purpose of this regulation is to set forth the standards and form of the audit required to audit the escrow and settlement practices, escrow accounts, security agreements, instructions and files, and the underwriting and claims practices. The audit shall include a review of the blank policy inventory and processing operations of title insurance agents as well as to establish guidelines, standards and related matters for title insurers and title insurance agents in the implementation of the Louisiana Title Insurance Act. Under the authority of Louisiana Revised Statute, Title 22, Sections 3, 7, 10, 1113, 1191(B), 2092.9(A)(1), 2092.9(A)(2) and 2092.14, the Department of Insurance gives notice that the following proposed regulation is to become effective upon its final publication in the *Louisiana Register*. The intended action complies with the statutory law administered by the Department of Insurance.

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 55. Regulation 67—Audit of Title Insurance Agents

§5501. Purpose

The purpose of this regulation is to establish guidelines, standards and related matters for title insurers and title insurance agents in the implementation of the Louisiana Title Insurance Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 3, 7, 10, 2092.9(A)(2) and 2092.14.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5503. Definitions

The definitions relevant to this regulation shall be those designated in LSA-R.S. 22:2092.2 of the "Louisiana Title Insurance Act."

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 3, 7, 10, 2092.9(A)(2) and 2092.14.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5505. Standards and Form of Audit

A. The title insurer shall conduct an on-site audit tri-annually, meaning once every three years, of each of its appointed title insurance agents who shall have remitted \$2,500 or more in net premium during any one calendar year to the title insurer pursuant to the provisions of LSA-R.S. 22:2092.1 et seq.

1. Auditors shall observe those guidelines and procedures set forth in the Examiners' Handbook adopted by the National Association of Insurance Commissioners as it pertains to LSA-R.S. 22:2092.1 et seq.

2. Nothing contained in this section shall limit the right or responsibility of the title insurer to perform any other audit procedures as necessary.

3. The title insurer shall provide the Department with a copy of the audit report within 30 days of its completion, when there is a finding of any violation of LSA-R.S. 22:2092.9.A(1).

B. The title insurer shall conduct a policy inventory audit tri-annually, meaning once every three years, of each of its appointed title insurance agents, who shall have remitted less than \$2,500 in net premium during any one calendar year to the

title insurer.

1. The policy inventory audit shall include, but is not limited to, an inventory and reconciliation of all policy forms assigned to the title insurance agent.

2. Nothing contained in this section shall limit the right or responsibility of the title insurer to perform any other audit procedures as necessary.

3. The title insurer shall provide the Department with a copy of the audit report within 30 days of its completion, when there is a finding of any violation of LSA-R.S. 22:2092.9.A(1).

C. The title insurer shall be responsible for all expenses incurred by the title insurer in conducting the audits set forth in §5505.A and B, including the expenses and fees of examiners, auditors, accountants, actuaries, attorneys, clerical or other assistants who are employed by the title insurer to make the audit.

D. The title insurance agent, employees and representatives shall produce and make freely accessible to the title insurer the accounts, records, documents and files in its control in relation to the subject of the audits set forth in §5505.A and B.

E. The title insurance agent shall retain all records of all matters relating to the title insurance policies not less than seven years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 3, 7, 10, 2092.9(A)(2) and 2092.14.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5505. Errors and Omissions Coverage

All title insurance agents, including its employees, shall maintain an errors and omissions liability policy, issued by insurers authorized to do business in this state. In no event shall the policy coverage be less than \$250,000 per claim. The title insurer shall not provide errors and omissions insurance directly or indirectly on behalf of the title insurance agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 3, 7, 10, 2092.9(A)(2) and 2092.14.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5507. Back to Back Real Estate Closings

A. To facilitate closings where an individual sells immovable property (the "sale") and utilizes the proceeds of the sale to purchase immovable property (the "purchase"), the title insurance agent for the sale shall have certified the following:

1. that funds drawn at the time of the real estate closing and settlement are from an escrow account as defined by LSA-R.S. 22:2092.2(6); and

2. that the funds disbursed are from those funds received by the title insurance agent at the time of the real estate closing and settlement and are in one of the forms enumerated in LSA-R.S. 22:2092.11B(1)(a)-LSA-R.S. 22:2092.11B(1)(h).

B. Certification as set forth hereinabove will authorize the title insurance agent who processes the closing and settlement of the purchase to accept as "good funds" pursuant to LSA-R.S. 22:2092.11B(1)(a)-LSA-R.S. 22:2092.11B(1)(h) a check drawn on the escrow account of the title insurance agent who processed the sale, provided that the certification shall have

been executed by the title insurance agent who processed the sale and then retained by the title insurance agent who processed the purchase.

C. The collection of funds associated with any insured real estate closing is the responsibility of the title insurance agent regardless of the form of the funds accepted or any certification thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 3, 7, 10, 2092.9(A)(2) and 2092.14.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§5509. Enforcement

A. If the Department determines that the title insurer, title insurance agent, or any other person has violated this regulation or order promulgated thereunder, the Department, pursuant to R.S. 22:2092.15 et seq. may order:

1. revocation or suspension of the license of the title insurance agent and/or revocation or suspension of the certificate of authority of the title insurer; and/or fines;

2. if a corporation, a penalty not exceeding \$50,000 for each violation, and if a natural person, a penalty not exceeding \$10,000 for each violation.

B. All title insurers and title insurance agents shall be subject to all other applicable provisions of the *Louisiana Insurance Code*, unless specifically exempted by this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 3, 7, 10, 2092.9(A)(2) and 2092.14.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

A public hearing on this proposed regulation will be held on February 24, 1999 in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, Louisiana at 9:00 A.M. All interested persons will be afforded an opportunity to make comments.

Interested persons may obtain a copy of this proposed regulation from, and may submit oral or written comments to Edwin J. Wilson, Staff Attorney, Department of Insurance, 950 North Fifth Street, Baton Rouge, Louisiana 70804-9214, telephone (225) 342-5317. Comments will be accepted through the close of business at 4:30 P.M., March 5, 1999.

James H. "Jim" Brown
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 67—Audit of Title Insurance Agents

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that Regulation 67 would result in any implementation costs or savings to local or state governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Regulation 67 provides for the levy of penalties against companies and agents that violate the provisions of LSA-R.S.22:2092.9A(1); however, there are not sufficient data available to determine the amount of revenue that might be so generated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated benefits or costs to directly affected groups or persons, other than any fines which would be levied for non-compliance as a result of Regulation 67. These fines would be the source of self-generated revenue for the Department of Insurance. Title insurance companies currently "audit" their agents. Regulation 67 would provide forms and guidelines to be followed in the performance of those audits and reporting to the Department of Insurance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Regulation 67 is not expected to have any impact on competition and employment.

Donald J. McLean, Jr. Robert E. Hosse
Assistant Commissioner General Government Section Director
Management and Finance Legislative Fiscal Office
9901#033

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

Homeless Trust Fund (LAC 48:I.Chapter 18)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Department of Social Services intends to amend the existing rule, originally promulgated in the *Louisiana Register*, Volume 21, pages 401-402, (April 1995) establishing a procedure to disburse funds from the Louisiana Homeless Trust Fund. The amended rule deletes references to the Homeless Trust Fund Advisory Council, which was abolished by Act 1116 of the 1997 Legislature, and solely authorizes the Department of Social Services to implement and oversee the disbursement process for the Homeless Trust Fund. The amended rule also repeals §1813, which required the retention of a minimum residual amount in the Trust Fund, in order to allow all remaining trust fund monies to be disbursed in full. In October, 1995, under provisions of R.S. 47:120.37, the Homeless Trust Fund was removed from the donation schedule of the state income tax return, terminating revenues from this source for replenishment of the Trust Fund, and obviating the need for retention of a funding reserve.

The Homeless Trust Fund rule is hereby amended to incorporate and substitute the revised provisions stated below.

Title 48

PUBLIC HEALTH

Part I. General Administration

Chapter 18. Homeless Trust Fund

§1801. Definitions

A. In this Chapter:

DSS—means the Department of Social Services (Office of Community Services).

Fund—means the Louisiana Homeless Trust Fund established by R.S. 46:591 through 46:595.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), amended LR 25:

§1803. Application Requests

A. To receive an application, an organization that aids the homeless must submit a written request to DSS containing the following information:

1. name of the organization;
2. mailing address of the organization;
3. phone number of the organization;
4. contact person within the organization; and
5. proof of the organization's nonprofit and tax exempt status or of nonprofit application pending.

B. An organization that submits an application request will be added to DSS's mailing list and DSS shall mail the organization information about application requirements and deadlines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), amended LR 25:

§1805. Application Requirements and Deadlines

A. The application for funds must contain:

1. name and mailing address of the organization;
2. names and addresses of the organization's Board of Directors;
3. certification of the organization's nonprofit and tax exempt status or of nonprofit application pending;
4. brief history of the organization and its programs;
5. description of the proposed use of the requested funds;
6. description of the unmet needs of the homeless in the organization's community, including the source of the information;
7. itemized budget and budget justification for the Trust Fund proposal;
8. summary of organization's annual budget and sources of income;
9. documentation of the availability of matching funds for the proposal.

B. DSS will issue solicitations for grant applications after the end of the state fiscal year when the balance in the Fund is determined. The solicitation for grant applications will outline application deadlines and describe the eligible projects that DSS will fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), amended LR 25:

§1807. Review of Applications

A. DSS will review complete applications in the order the applications are received.

B. DSS shall evaluate each application according to the following factors:

1. the extent to which the proposal meets the needs of the homeless in the organization's service community, as identified by the most recent report of the Louisiana Interagency Council on the Homeless;

2. the extent to which the organization requires Homeless Trust Fund monies as an equivalent match for other homeless assistance funding;

3. the demonstrated success of the program in meeting the needs of the homeless, if the proposal concerns an existing program;

4. the extent to which the proposal provides for direct services or housing needs, rather than administrative services; and

5. other factors as identified in DSS's solicitation for grant applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), amended LR 25:

§1809. Notification and Appeals

A. DSS shall notify applicants of award decisions no later than 30 days after the date of DSS's decision.

B. An organization shall notify DSS in writing and by mail of whether the organization accepts the award no later than 30 days after the date the organization received DSS's notification.

C. DSS shall publish in the *Louisiana Register* a list of all projects funded during the previous state fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), amended LR 25:

§1811. Emergency Grants

At any time, DSS may authorize an emergency grant of up to \$2,000 to an organization that aids the homeless, as long as funding is available. A request for an emergency grant must state the immediate nature of the request and comply with §1805.A of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), amended LR 25:

§1813. Residual Funds in the Homeless Trust Fund

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), repealed LR 25:

Interested persons may submit written comments to the following address: Keyth A. Devillier, Homeless Trust Fund Coordinator, Office of Community Services, Department of Social Services, Box 3318, Baton Rouge, LA 70821, or phone (225) 342-2277. He is responsible for responding to inquiries regarding the proposed rule.

Madlyn Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Homeless Trust Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Amended rule is to revise procedure for disbursement of monies on deposit in the Homeless Trust Fund to delete references to Homeless Trust Fund Advisory Council (abolished by Act 1116 of 1997) originally designated to perform certain functions in the disbursement process, and to solely authorize DSS to implement and oversee all procedures. Estimated disbursements for State Fiscal year 1998-99 will not exceed monies (approximately \$30,000) presently deposited in the Trust Fund for this purpose.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Rule is not anticipated to have any effect on revenue collections of state or local government units as monies to be disbursed derive from dedicated source constituting donations specifically made to the Homeless Trust Fund.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Trust fund dollars will be beneficial as a financial resource to support new or enhanced activities by local homeless aid projects to prevent homelessness and to assist homeless people to become self-sufficient.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Rule will have no effect on competition and employment in private enterprise sector. Trust Fund implementation may have a positive effect on employment through support of local programs promoting self sufficiency and employment readiness for homeless and destitute individuals.

Robert J. Hand
Director
Management and Finance
9901#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Family Independence Temporary Assistance Program
(FITAP)—Earned Income Deductions
(LAC 67:III.1149)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families Block Grant, the agency proposes to remove the maximum limit allowed for a dependent care deduction. Although policy was changed removing the cap on the dependent care deduction effective March 1998, the agency failed to revise §1149.

Additionally, the agency is removing the dependent care deduction for those recipients who received FITAP in October 1988 or August 1992 based on application of the deduction and when such recipients would be disadvantaged by loss of the deduction.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter C. Need and Amount of Assistance

§1149. Earned Income Deductions

A.1. - 2. ...

3. Dependent Care. Recipients may be entitled to a deduction for dependent care for an incapacitated adult, or for a child age 13 or older who is not physically or mentally incapacitated or under court supervision.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:460.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), amended by the Department of Social Services, Office of Family Support, LR 18:869 (August 1992), LR 23:1707 (December 1997), LR 25:

Interested persons may submit written comments by March 1, 1999 to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, P. O. Box 94065, Baton Rouge, Louisiana 70804-4065.

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Family Independence Temporary Assistance Program (FITAP)—Earned Income Deductions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The immediate implementation cost to state government is the cost of publishing the rule. This cost is minimal and funds for such actions are included in the program's annual budget. There are no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action may allow an increase in FITAP benefits for a small number of recipients who would benefit from an increase in the dependent care deduction as a result of removing the maximum allowed limit. There are no costs or benefits to non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9901#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Food Stamp Program—Alien Eligibility
(LAC 67:III.1928, 1931-1933, 1994)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.Chapter 19 pertaining to the Food Stamp Program.

Since 1996 several public laws revising the *United States Code* have prompted the agency to promulgate and amend rules with regard to the food stamp eligibility of non-citizens. Program review of the Notice of Intent and Declaration of Emergency concerning §1994 (*Louisiana Register*, October 1998) revealed that previous revisions had failed to include the basic regulations regarding qualified aliens. Further review noted that although Subchapter D was originally reserved for this subject area, the agency had failed to utilize it. Because Subchapter K contained reference to aliens, the first revision pursuant to welfare reform was an amendment to it.

Therefore, the agency now proposes to promulgate these regulations under Subchapter D. A change is also necessary to expand the section numbers available under Subchapter D. To accomplish this current §1931 entitled Verification of Eligibility is being renumbered as §1928 with no change to its content.

The agency published a Notice of Intent and Declaration of Emergency concerning alien eligibility in October 1998. The Notice is, therefore, voided by this action. However, since part of proposed Subchapter D now contains the emergency regulations which were effective November 1, 1998, this proposed rule will later appear in its entirety as a Declaration of Emergency to extend the effectiveness of those regulations.

Title 67

SOCIAL SERVICES

**Part III. Office of Family Support
Subpart 3. Food Stamps**

Chapter 19. Certification of Eligible Households

Subchapter B. Application Processing

§1928. Verification of Eligibility

A. The Office of Family Support shall require verification of residency requirements, the identity of the person making application and continuing shelter charges.

B. The Office of Family Support may, with prior Food and Nutrition Service approval, require additional verification of other eligibility factors as indicated by quality control reviews, audits, or other special reviews.

C. The agency will require verification of necessary information within 10 days. Failure to provide such verification may result in rejection of the application unless the household has requested additional time in which to obtain the verification or assistance in obtaining the verification. If the case is closed due to failure to submit required verification and the verification is subsequently provided within the initial 30-day period, the application will be reactivated retroactively to the date of application. If the verification is provided in the second 30-day period, the application will be reactivated and benefits will be prorated from the date the missing verification is provided.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:3194 et seq., 7 CFR 273.2, 7 CFR 273.3.c.(1)(ii).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Subchapter D. Citizenship and Alien Status

§1931. Qualified Aliens

A. In addition to U.S. citizens, the following qualified aliens are eligible for benefits:

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
2. an alien who is granted asylum under Section 208 of such Act;
3. a refugee who is admitted to the United States under Section 207 of such Act;
4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
5. an alien whose deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241.b.3 of such Act (as amended by Section 305(a) of Division C of Public Law 104-208);
6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act as in effect prior to April 1, 1980; or
7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501.e of the Refugee Education Assistance Act of 1980;
8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:
 - a. the status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or
 - b. the classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA; or
 - c. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or
 - d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or

classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA;

9. an alien child or the alien parent of a battered alien as described in §1931.A.8.

AUTHORITY NOTE: Promulgated in accordance with P. L. 104-193, P.L. 104-208, P. L. 105-33 and P. L. 105-185.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 7:265 (May 1981), amended by the Department of Social Services, Office of Family Support, LR 22:286 (April 1996), LR 25:

§1932. Time Limitations for Certain Aliens

A. The following qualified aliens are eligible for benefits for a period not to exceed seven years after they obtain designated alien status:

1. refugees admitted under §207 of the Immigration and Nationality Act (INA);
2. asylees admitted under §208 of the INA; and
3. an alien whose deportation is withheld under §243(h) of such ACT (as in effect immediately before effective date of §307 of division C of P.L. 104-208) or §241(b)(3) of such Act (as amended by Section 305(a) of division C of P.L. 104-208);
4. *Cuban* and *Haitian* entrants as defined in §501(e) of the Refugee Education Assistance Act of 1980;
5. *Amerasian* immigrants admitted pursuant to §584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 as contained in §101(e) of P.L. 100-202 and amended by the 9th proviso under migration and refugee assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, P.L. 100-461, as amended.

B. The following qualified aliens are eligible for an unlimited period of time:

1. veterans who have met the minimum active duty service requirements of Section 5303 A(d) of Title 38, *United States Code*, who were honorably discharged for reasons other than alienage and their spouses or unremarried surviving spouses, if the marriage fulfills the requirements of Section 1304 of Title 38, *United States Code*, and unmarried dependent children;
2. active duty personnel (other than active duty for training) and their spouses, or unremarried surviving spouses, if the marriage fulfills the requirements of Section 1304 of Title 38, *United States Code*, and unmarried dependent children;
3. aliens who have worked 40 qualifying quarters of coverage under Title II of the Social Security Act or can be credited with such qualifying quarters;
4. individuals who were lawfully residing in the United States on August 22, 1996 and are receiving benefits or assistance for blindness or disability as defined in §3(r) of the Food Stamp Act of 1997.
5. individuals who were lawfully residing in the United States on August 22, 1996 and were 65 years of age or older;
6. individuals who were lawfully residing in the United States on August 22, 1996 and are under 18 years of age.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33 and P.L. 105-185.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§1933. Non-Qualified Aliens

A. The following aliens may be eligible for an indefinite period of time even though they are not qualified aliens.

1. Individuals who are lawfully residing in the United States and were members of a Hmong or Highland Laotians tribe at the time the tribe rendered assistance to the United States personnel by taking part in a military rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975, as defined in §101 of Title 38, *United States Code*; the spouse or an unmarried, dependent child of such an individual; or the unremarried surviving spouse of such an individual who is deceased.

2. Individuals who are American Indian born in Canada to whom the provisions of §289 of the Immigration and Nationality Act apply or who is a member of an Indian tribe as defined in §4(e) of the Indian Self-Determination and Education Assistance Act.

AUTHORITY NOTE: Promulgated in accordance with P.L. 105-185.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Subchapter K. Action on Households with Special Circumstances

§1994. Alien Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 104-208 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), LR 24:354 (February 1998), repealed LR 25:

Interested persons may submit written comments by March 1, 1999 to the following: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-4065.

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Food Stamp Program—Alien Eligibility**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Since this rule proposes only to clarify and reorganize certain Food Stamp Program regulations, the only cost to the state is the minimal charge for publication of the notice and final rule. There are no costs or savings to any local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs or benefits to any persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9901#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

Child Residential Care—Authority, Definitions,
and Controlled Intensive Care Facility
(LAC 48:I.7903, 7907 and 7925)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to amend the LAC 48:I. Subpart 3, Licensing and Certification.

This proposed rule is mandated by Louisiana Revised Statutes 46:1401 through 1426.

These standards are being amended to add procedures for licensure, add definitions and to add additional licensing modules.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 79. Child Residential Care

§7903. Authority

A.1. - 2. ...

3. To carry out the legislative provisions and meet the needs of children who have been placed in out-of-home care, separate regulations have been developed which are designed for the different types of programs. These programs are established as "modules" to the child residential care regulations as listed below:

- a. Therapeutic Wilderness Program; and
- b. Controlled Intensive Care Facility or Unit.

4. To obtain a license as a Child Residential Care Facility, an applicant must meet, and adhere to, the licensing standards as stipulated in §§7901-7921. These standards shall be known as core standards.

5. To obtain a license as a Therapeutic Wilderness Program, an applicant must meet the core standards plus the licensing standards as stipulated in the module under §7923. If any core standard is not applicable to the Therapeutic Wilderness Program, it shall be so stated in the module.

6. To obtain a license as a Controlled Intensive Care Facility or Unit, an applicant must meet the core standards plus the licensing standards as stipulated in the module under

§7925. If any core standard is not applicable to the Controlled Intensive Care Facility or Unit, it shall be so stated in the module.

7. An applicant may be licensed as a "stand alone" Child Residential Facility, a Therapeutic Wilderness Program or a Controlled Intensive Care Facility.

8. A facility already licensed as a Child Residential Facility may also be licensed to operate a Therapeutic Wilderness Program or a Controlled Intensive Care Unit by meeting the additional appropriate licensing standards. However, the licensed capacity of these units shall be separate from the licensed capacity of the Child Residential Facility.

9. A facility already licensed by another agency or as another type program must meet the licensing standards for Child Residential Facility plus the appropriate module standards.

10. A facility licensed by another agency or as another type program must have a clear separation between the areas to be licensed that will prohibit the residents from intermingling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:46 (April, 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24: 2129 (November 1998), LR 25:

§7907. Definitions

* * *

Core Standards—the basic licensing standards that all providers must meet in order to obtain a license.

* * *

Module—the additional licensing standards that must be met, in addition to the core standards, to obtain a license for a particular speciality.

* * *

Controlled Intensive Care Facility or Unit—a staff secure, intensive therapeutic program of individualized treatment provided on a twenty-four (24) hour, seven (7) day a week basis.

* * *

Controlled Time-Out—an intervention used only in extreme situations where a child is out of control, and is a danger to him/herself or others, or whose presence is a severe disruption of the therapeutic environment.

* * *

Time-Out—an intervention utilized when a child needs to be removed from a situation or circumstance and does not have the ability, at the time, to self monitor and determine readiness to rejoin the group.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24: 2129 (November 1998), LR 25:

§7925. Controlled Intensive Care Facility or Unit

A. Controlled Intensive Care Facilities or Units shall meet all core standards (§§7901-7921), unless specifically replaced

or revised, plus the standards as stipulated in this module.

B. Orientation

1. All direct care staff shall receive 40 hours of orientation/training prior to being independently assigned to a particular job. In addition to the topics listed under §7911.E.1, the following topics must be covered:

- a. interpersonal relationships;
- b. communication skills;
- c. child growth and development;
- d. social/cultural lifestyles of the population served;
- e. procedures for use of time-out including controlled time-out; and
- f. procedures for use of locked doors and gates, if allowed.

2. All clerical and support staff, who have minimum contact with residents, shall receive at least sixteen (16) hours of orientation/training in topics other than specific job responsibilities, during the first two (2) weeks of employment. At a minimum this orientation/training must cover the following:

- a. security procedures;
- b. emergency and safety procedure including medical emergencies;
- c. the provider's philosophy, organization, program, practices and goals;
- d. detecting and reporting suspected abuse and neglect;
- e. reporting critical incidents;
- f. interpersonal relationships;
- g. children's rights; and
- h. social/cultural lifestyles of the population served.

3. All volunteers shall receive orientation, prior to beginning work, as listed for clerical staff.

4. All staff with supervisory authority over direct care staff or who have routine contact with residents shall receive orientation/training as listed for direct care staff.

C. Annual Training

1. All supervisory and direct care staff shall receive at least forty (40) hours of training, in addition to the orientation training, during the first year of employment.

2. All supervisory and direct care staff shall receive at least forty (40) hours of training each year of employment.

3. All clerical and support staff shall receive at least sixteen (16) hours of training each year of employment.

D. Staffing Requirements. Section 7911.H.3 of the core standards shall be replaced with the following for this module.

1. A Controlled Intensive Care Facility or Unit shall have an adequate number of qualified direct care staff on duty and with the children at all times to ensure the health, safety and well being of children and to carry out all treatment plans.

2. The provider shall maintain a direct care staff to children ratio of at least 1:2 when children are present and awake and a staff to children ratio of at least 1:3 when children are present and asleep.

3. Direct care staff shall always be awake while on duty.

4. In addition to required direct care staff, at least one supervisory staff person shall be on call in case of emergency.

5. Any deviation from the staffing ratios as required by this section may only be made as agreed upon by the

placing/funding agency and the provider. A provider may not deviate from the required staffing ratio for any placement made by anyone, or any agency, other than an agency of the State of Louisiana. The procedure for an agreement is as follows.

a. The agreement shall be based upon the needs of the children being placed in the facility.

b. A copy of the agreement, signed by both the placing/funding agency and the provider must be on file and a copy mailed to the Bureau of Licensing.

c. The agreement must have an effective beginning date and an ending date. The ending date shall be for no longer than twelve (12) months without a new agreement being signed.

d. An agreement may be canceled by either the placing/funding agency or provider by giving a two (2) week written notice. A copy of this notice shall be mailed to the Bureau of Licensing.

E. Clothing

1. If a Controlled Intensive Care Facility or Unit requests, and is approved to provide uniforms or other clothing to residents, the following procedures must be followed.

a. All uniforms or clothing must be provided by the provider at no cost to the children, their family, the placing or the funding agency. This clothing must be neat, clean and of a type that would normally be worn in the community. Also, no individual child shall be required to wear any distinguishing type clothing or uniform for punishment or for any other negative reason.

b. To be approved to furnish uniforms or other clothing to residents, the provider must obtain a letter of approval from each state agency or court that places children in the facility. These letters of approval must state the type of uniform or clothing to be used and be submitted to the Bureau of Licensing.

c. If approval is granted, all residents, regardless of how or by whom admitted, shall be required to wear the uniform or clothing in accordance with approved treatment policies and procedures.

d. If approval is granted by the Bureau of Licensing, §7913.J.3 of the core standards shall not be enforced.

F. Intake Evaluation. Section 7915.B.1 of the core standards shall be replaced with the following for this module.

1. The Controlled Intensive Care Facility or Unit shall accept a child into care only when a current, comprehensive intake evaluation or assessment has been completed including health, family history, medical, social, psychological, and as appropriate, a developmental and vocational or educational assessment. This evaluation or assessment must have been completed or updated within the last six (6) months. If the child has been hospitalized for treatment, a copy of the last hospitalization report must be provided. This evaluation shall contain evidence that a determination has been made that the child cannot be maintained in a less restrictive environment within the community.

2. An emergency placement of a child into a Controlled Intensive Care Facility or Unit may be made without current evaluations or assessments only as follows:

a. The placing/funding agency verifies that the child requires controlled intensive care.

b. The proper evaluations or assessments are made available to the provider within fifteen (15) days.

3. If the proper evaluations or assessments are not made available to the provider within fifteen (15) days, the child must be removed.

G. The Treatment Plan

1. Section 7917.A.4 of the core standards shall be revised to require the treatment plan manager to review and approve status reports of the successes and failures of a child at least every thirty (30) days.

2. Section 7917.B.1 of the core standards shall be revised to require an initial treatment plan to be developed within seventy-two (72) hours of admission. If a master plan is not developed within fifteen (15) days of admission, a review of the initial plan must be made at this time. A master plan shall be developed within thirty (30) days of admission.

H. Time-out Procedures. In addition to §7917.K of the core standards concerning time-out procedures, the following shall be required for the use of controlled time-out.

1. If a child becomes uncontrollable and is a danger to her/himself or others he/she may be placed in controlled time-out. If a child is placed in controlled time-out, the procedures are as follows.

a. Controlled time-out may be for no longer than the time it takes for a child to reach a point where he/she is no longer a danger to her/himself or to others.

b. Controlled time-out shall be in increments of no more than fifteen (15) minutes each.

c. Direct care staff may not place a child in controlled time-out for more than the initial fifteen (15) minute time frame.

d. When direct care staff places a child in controlled time-out, the unit supervisor or case manager must be notified immediately.

e. If a second fifteen (15) minute time-out segment is needed, the unit supervisor or case manager must give approval.

f. The unit supervisor or case manager may only approve two (2) additional time-out time frames [the third and fourth fifteen (15) minute period].

g. Any further use of controlled time-out must be approved by a licensed mental health professional.

2. Written reports must be prepared and signed by the individuals authorizing each 15 minute time frame of controlled time-out which gives the events that preceded the need for the use of controlled time-out; why there was a need for additional controlled time-out; how the child reacted to controlled time-out, etc.

3. The case or treatment plan manager must prepare an incident report which covers the events that preceded the initial controlled time-out, the progression of events throughout the entire controlled time-out period and the end result of the time-outs. It shall also give any recommendations that may be deemed necessary to prevent the need for repeated use of controlled time-outs for the individual child or the need for changes in the child's individual treatment plan. This report shall be submitted to the administrator of the agency.

4. The door to the controlled time-out room may only be physically held closed by staff so that the child cannot exit the room.

5. The door to the controlled time-out room shall have a view panel that allows staff to observe the child at all times and staff shall keep the child in continuous sight the entire time that he/she is in the room.

6. The room used for controlled time-out shall have at least sixty (60) square feet of floor space and shall have no furniture, obstructions, projections or other devices that could be used as a means to cause harm to the child or as a weapon against staff.

7. As soon as the child is under control and is no longer a threat of harm to him/herself or others, the door to the controlled time-out room must be released.

I. Exterior Space. In addition to §7919.A of the core standards concerning exterior space, the following shall be required if the Controlled Intensive Care Facility or Unit utilizes a security fence with locked gates.

1. The fence shall have a gathering area that is at least fifty (50) feet away from the building.

2. The space shall be of sufficient size to allow for fifteen (15) square feet of space per each resident and staff that may be in the building.

3. The fence may not be equipped with razor wire.

4. All staff working in the controlled area must carry keys to the gate at all times.

J. Sleeping Accommodation. Section 7919.D.3 of the core standards shall be replaced with the following for this module.

1. A Controlled Intensive Care Facility or Unit shall not permit more than two (2) children to occupy a designated bedroom space.

2. Any deviation to allow more than two (2) children to occupy a designated bedroom space may only be made as agreed upon by the placing/funding agency and the provider. A provider may not deviate from the required two (2) children to a bedroom for any placement made by anyone, or any agency, other than an agency of the State of Louisiana. The procedure for an agreement is as follows.

a. The agreement shall be based upon the needs of the children placed in the facility.

b. A copy of the agreement, signed by both the placing/funding agency and the provider must be on file and a copy mailed to the Bureau of Licensing.

c. The agreement must have an effective beginning date and an ending date. The ending date shall be for no longer than twelve (12) months without a new agreement being signed.

d. An agreement may be canceled by either the placing/funding agency or provider by giving a two (2) week written notice. A copy of this notice shall be mailed to the Bureau of Licensing.

3. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

K. Interior Space

1. Doors leading into a Facility or Unit may be locked only in the direction of ingress.

2. Doors in the line of egress shall not be locked.

3. Any deviation to allow the outermost doors in the line of egress to be locked may only be made after approval has been given by the Office of State Fire Marshal and as agreed upon by the placing/funding agency and the provider. A provider may not deviate from the requirement for unlocked egress doors for any placement made by anyone, or any agency, other than an agency of the State of Louisiana. The procedure for an agreement is as follows.

a. The agreement shall be based upon the needs of the children placed in the facility.

b. A copy of the agreement, signed by both the placing/funding agency and the provider must be on file and a copy mailed to the Bureau of Licensing.

c. The agreement must have an effective beginning date and an ending date. The ending date shall be for no longer than twelve (12) months without a new agreement being signed.

d. An agreement may be canceled by either the placing/funding agency or provider by giving a thirty (30) day written notice. A copy of this notice shall be mailed to the Bureau of Licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:46 (April, 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24: 2129 (November 1998), LR 25:

Interested persons may request copies as well as submit written comments on this proposed rule to Theresa Anzalone, Director, Bureau of Licensing, Office of the Secretary, Department of Social Services, P. O. Box 3078, Baton Rouge, LA 70821-3078. All interested persons will be afforded an opportunity to submit data, views or arguments in writing within 30 days after publication. The deadline date for all comments is February 19, 1999 at 4:30 p.m.

Public hearings on this proposed rule will be held on Wednesday, February 24, 1999 at the Hope Haven Center, 10010 Barataria Boulevard, Marrero, LA 70072 at 10 a.m. to 11 a.m.; Thursday, February 25, 1999 at the Bureau of Licensing, 2751 Wooddale Boulevard, Suite 330, Baton Rouge, LA 70806 at 10 a.m. to 11 a.m. and Friday, February 26, 1999 at the Louisiana Methodist Children's Home, 901 South Vienna, Ruston, LA 71270 at 9 a.m. to 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the public hearing.

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Child Residential Care—Authority,
Definitions and Controlled Intensive Care Facility**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs to state or local governmental units associated with this rule. It will amend the licensing standards for child residential care by establishing

regulations and procedures for Controlled Intensive Care Facilities.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs or economic benefits to any persons or non-governmental units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition. One possible effect on employment will be increased opportunities for employment of staff at these new facilities. However, these additional employment opportunities are not anticipated to be significant in number.

Madlyn B. Bagneris
Secretary
9901#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

**Day Care Centers—Disclosure of Information
(LAC 48:I.5350)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by R.S. 46:1426, notice is hereby given that the Department of Social Services, Office of the Secretary, Bureau of Licensing proposes to adopt the following rule governing the disclosure of information concerning licensed child day care centers.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Information

Subpart 3. Licensing and Certification

Chapter 53. Day Care Centers

**§5350. Disclosure of Information as Specified Under
R.S. 46:1426**

A. Purpose; Authority. It is the intent of the Legislature to protect the health, safety, and well-being of children who are in out-of-home day care centers. Toward that end, R.S. 46:1426 allows parents or guardians of children enrolled in, or who have made application to be enrolled in, a day care center to obtain certain information pertaining to that particular day care center in addition to information that may be obtained under the Public Records Act subject to the limitations provided by R.S. 46:56(F)(4)(c).

B. Procedure for Requesting Information

1. Requests for information may be made by a parent or guardian of a child either by telephone or in writing.

2. Upon receipt of a request that does not give assurance that the person making the request is a parent or guardian of a child that is currently attending or that has completed a current

application to attend the day care center in question, the Bureau of Licensing shall furnish the parent or guardian a certification form that must be completed and signed that certifies that their child is currently attending or that a current application has been made for the child to attend the particular day care center.

3. Upon receiving the needed information, or the certification form, the Bureau of Licensing shall initiate a review of the records of that particular day care center.

4. The Bureau of Licensing shall provide or make available all information, if any, that is requested, subject to limitations as provided by law.

5. Failure of a parent or guardian to sign a certification form or provide compelling information that indicates their child is either currently attending or has made application to attend said day care center will result in the request being handled as a request under the Public Records Act.

C. Information that May Be Released

1. Information that may be released under R.S. 46:1426 is as follows:

a. each valid finding of child abuse, neglect, or exploitation occurring at the center, subject to the limitations provided by R.S. 46:56(F)(4)(c);

b. whether or not the day care center employs any person who has been convicted of or pled guilty or nolo contendere to any of the crimes provided in R.S. 15:587.1;

c. any violations of standards, rules, or regulations applicable to such day care center; and

d. any waivers of minimum standards authorized for such day care center.

2. No information may be released that contains the name, or any other identifying information, of any child involved in any situation concerning the day care center.

3. The identity of any possible perpetrator or of the party reporting any suspected abuse, neglect or exploitation shall not be disclosed except as required by law.

4. If there is no information in the files other than information covered under the Public Records Act, the parent or guardian shall be so notified and informed of the procedure for obtaining that information.

D. Costs. As is required for obtaining copies of records under the Public Records Act, parents or guardians wanting copies of records under R.S. 46:1426 shall be informed of the costs involved and pay for copies of said records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1426

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 25:

Interested persons may request copies as well as submit written comments on this proposed rule to Theresa Anzalone, Director, Bureau of Licensing, Office of the Secretary, Department of Social Services, P. O. Box 3078, Baton Rouge, LA 70821-3078. All interested persons will be afforded an opportunity to submit data, views or arguments in writing within 30 days after publication. The deadline date for all comments is February 19, 1999 at 4:30 p.m.

A public hearing on this proposed rule will be held on Thursday, February 25, 1999 at the Bureau of Licensing, 2751 Wooddale Boulevard, Suite 330, Baton Rouge, LA 70806 at

9 a.m. to 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the public hearing.

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Day Care Centers—Disclosure of Information**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs to state or local government associated with this rule. It will require that certain procedures be established in the Bureau of Licensing when parents or guardians request information concerning a licensed child day care center in which their child is either currently enrolled or applied for enrollment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no anticipated costs or economic benefits to any persons or non-governmental units.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule will have no impact on competition or employment.

Madlyn Bagneris
Secretary
9901#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of the General Counsel**

**Outdoor Advertisement—Unzoned Areas
(LAC 70:I.136)**

In accordance with the applicable provisions of the Administrative Procedure Act, L.R.S. 49:950 et seq., notice is hereby given that the Louisiana Department of Transportation and Development intends to promulgate a rule entitled "Erection and Maintenance of Outdoor Advertising in Unzoned Commercial and Industrial Areas," in accordance with R.S. 48:461.2(e).

**Title 70
TRANSPORTATION
Part I. Office of the General Counsel
Chapter 1. Outdoor Advertisement
§136. Erection and Maintenance of Outdoor
Advertising in Unzoned Commercial and
Industrial Areas**

A. Definitions

Unzoned—those areas on which no land-use zoning is in effect. This term does not include any land area which has a rural zoning classification or which has land use established by

zoning variance, non-conforming rights recognition or special exception.

Unzoned Commercial or Industrial Areas—those areas which are not zoned by state or local law, regulation or ordinance and on which there are located one or more permanent structures within which a commercial or industrial business is actively conducted. The business must be equipped with all customary utilities and must be open to the public regularly or be regularly used by employees of the business as their principal work station. The area along the highway extending outward 800 feet from and beyond the edge of such activity shall also be included in the defined area; however the area created by the 800 foot measurement may not infringe upon any of the following:

- a. public parkland;
- b. public playground;
- c. public recreation area;
- d. scenic area;
- e. cemetery;
- f. an area that is predominantly residential in nature with more than 51 percent of the land devoted to residential use.

Each side of the highway will be considered separately in applying this definition. All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage, processing or landscaped areas of the commercial or industrial activities, and shall not be made from the property lines of the activities and shall be along or parallel to the edge of the pavement of the highway.

B. Qualifying Criteria for Unzoned Commercial and Industrial Areas

1. Primary Use Test

a. The primary use or activity conducted in the area must be of a type customarily and generally required by local comprehensive zoning authorities in this state to be restricted as a primary use to areas which are zoned industrial or commercial.

b. The fact that an activity may be conducted for profit in the area is not determinative of whether or not an area is an unzoned commercial or industrial area. Activities incidental to the primary use of the area, such as a kennel or repair shop in a building or on property which is used primarily as a residence, do not constitute commercial or industrial activities for the purpose of determining the primary use of an unzoned area even though income is derived from the activity.

c. If, however, the activity is primary and local comprehensive zoning authorities in this State would customarily and generally require the use to be restricted to a commercial or industrial area, then the activity constitutes a commercial or industrial activity for purposes of determining the primary use of an area, even though the owner or occupant of the land may also live on the property.

2. Visibility Test

The purported commercial or industrial activity must be visible from the main-traveled way within the boundaries of that unzoned commercial or industrial area by a motorist of normal visual acuity traveling at the maximum posted speed limit on the main traveled way of the highway. Visibility will

be determined at the time of the field inspection by the Department's authorized representative.

3. Structures and Grounds Requirements

a. Area. Any structure to be used as a business or office must have an enclosed area of six hundred (600) square feet or more.

b. Foundation. Any structure to be used as a business or office must be affixed on a slab, piers or foundation.

c. Access. Any structure to be used as a business or office must have unimpeded access from a roadway to an adequate customer parking lot adjacent to business building.

d. Utilities. Any structure to be used as a business or office must have normal utilities. Minimum utility service shall include business telephones, electricity, water service and waste water disposal, all in compliance with appropriate local, state and parish rules. Should a state, parish or local rule not exist, compliance with minimum utility service shall be determined at the time of field inspection by the Department's authorized representative.

e. Identification. The purported enterprise must be identified as a commercial or industrial activity which may be accomplished by on-premise signing or outside visible display of product.

f. Use. Any structure to be used as a business or office must be used exclusively for the purported commercial or industrial activity.

g. Limits. Limits of business activity shall be in accordance with the definition of "Unzoned commercial or industrial areas" stated in §136.A.

h. Activity Requirements. In order to be considered a commercial or industrial activity for the purpose of outdoor advertising regulation, the following conditions may be taken into consideration by the Department. The Department shall make a determination based upon a totality of the circumstances.

i. The purported activity or enterprise is open for business and actively operated and staffed with personnel on the premises a minimum of eight (8) hours each day and a minimum of five (5) days each week.

ii. The purported activity or enterprise maintains all necessary business licenses, occupancy permits, sales tax and other records as may be required by applicable state, parish or local law or ordinance.

iii. A sufficient inventory of products is maintained for immediate sale or delivery to the consumer. If the product is a service, it is available for purchase on the premises.

iv. The purported activity or enterprise is in active operation a minimum of six (6) months at its current location prior to the issuance of any outdoor advertising permit.

C. Where a mobile home or recreational vehicle is used as a business or office, the following conditions and requirements also apply.

1. Self-propelled vehicles will not qualify for use as a business or office for the purpose of these rules.

2. All wheels, axles, and springs must be removed.

3. The vehicle must be permanently secured on piers, pad or foundation.

4. The vehicle must be tied down in accordance with minimum code requirements. If no code, the vehicle must be

affixed to piers, pad or foundation.

D. Non-Qualifying Activities for Commercial or Industrial Unzoned Areas

1. Outdoor advertising structures.

2. Agriculture, forestry, ranching, grazing, farming and related activities, including but not limited to, wayside fresh produce stands.

3. Transient or temporary activities.

4. Activities more than 660 feet from the nearest edge of the right-of-way.

5. Activities conducted in a building principally used as a residence.

6. Railroad tracks and minor sidings.

7. Residential trailer parks, apartments, rental housing and related housing establishments intended for long term residential uses.

8. Oil and mineral extraction activities.

9. Junkyards.

10. Schools, churches or cemeteries.

11. Recreational facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2(e).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 25:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to: Mitchell Lopez, Traffic Planning Supervisor, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, La. 70804-9245, Phone (504) 935-0128.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Outdoor Advertisement-Unzoned Areas

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no cost to state or local governmental units in order to implement this rule. Although the federal government has not threatened sanctions, the Federal Highway Administration takes great interest in proper control of outdoor advertising and endorses the department's formalization of these policies which are drafted in accordance with the provisions of the Federal Highway Beautification Act.

The department currently enforces rules concerning outdoor advertising on state highway rights-of-way. This new rule would address a recurring problem for the department in its effort to regulate outdoor advertising devices. Certain outdoor advertising companies are using temporary entities which are created solely for the purpose of qualification for outdoor advertising locations in unzoned areas.

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 should be no cost and/or economic benefit to the outdoor advertising industry. This rule formalizes current policy. The industry should benefit from the now specific, objective criteria to be utilized by the department in determining the propriety of certain outdoor advertising locations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Kam K. Movassaghi, Ph.D., P.E.
Secretary
9901#052

H. Gordon Monk
Staff Director
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NOTICE OF INTENT

Department of Transportation and Development Office of Real Estate

Appraisal Handbook for Fee Appraisers
(LAC 70:XVII.Chapter 5)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a rule entitled "Appraisal Handbook for Fee Appraisers", in accordance with R.S. 48:443.

Title 70 TRANSPORTATION Part XVII. Real Estate

Chapter 5. Appraisal Handbook for Fee Appraisers

§501. Definitions

Acquired Right-of-Way—that portion of land, improvements and/or other rights acquired or expropriated.

Business Loss—a reduction in the income stream being produced by a business conducted on the property.

Date of Taking—the date of deposit of an estimate of compensation into the registry of court; also, where no formal taking occurs, the first date of substantial interference with ownership of the property.

Delay Damages—capitalization of reduced income due to unreasonable delay in completing the project.

Department—the Louisiana Department of Transportation and Development.

Economic Gain—an amount of money representing a benefit to the owner when the sum of all components of loss (part taken, improvements, severance damages and economic loss) results in a value to the owner of a greater amount than is necessary to place the owner in the same pecuniary position that he enjoyed prior to the taking.

Economic Loss—an amount of money over and above traditional payment for part taken and severance damages that must be expended by the owner to place him in the same pecuniary position that he enjoyed prior to the acquisition.

Expenditure—money paid out.

Front Land/Rear Land—a theory of compensation whereby property closer to the roadway is arbitrarily assigned a greater value than "rear" property.

Full Extent of the Owner's Loss—constitutionally mandated

measure of compensation whereby the owner receives the traditional measure of compensation (part taken, improvements and severance damage) plus any other economic loss sustained minus any economic gain created by the taking; that amount of money required to place the owner in the same pecuniary position had his property not been acquired.

Functional Replacement—the replacement of real property, either lands or facilities or both, acquired as a result of a transportation-related project, with lands or facilities, or both which will provide equivalent utility.

Gain—an increase in value.

Highest and Best Use—that reasonable and probable use that supports the highest present value, as defined, as of the effective date of the appraisal. Alternatively, that use, from among reasonable probable and legal alternative uses, found to be physically possible, appropriately supported, financially feasible, and which results in highest land value. The definition immediately above applies specifically to the highest and best use of land. It is to be recognized that in cases where a site bears existing improvements, the highest and best use of the total property, as improved, may be determined to be different from the highest and best use if vacant. The existing use will continue, however, unless and until land value in its highest and best use exceeds the total value of the property in its existing use. (See *Interim Use*.) Also implied is that the determination of highest and best use results from the appraiser's judgment and analytical skill, i.e., that the use determined from analysis represents an opinion, not a fact to be found. In appraisal practice, the concept of "highest and best use" represents the premise upon which value is based. In the context of "most probable selling price" (market value), another appropriate term to reflect highest and best use would be *most probable use*.

Interim Use—a transitional use or that existing and relatively temporary use in which the transition to highest and best use is deferred. A building or other improvement may have a number of years of remaining life, yet may not enhance the value of the land which has a higher use.

Loss—a decrease in value.

Loss of Profits—loss due to either reduced revenues, increased expenses or both.

Market Value—the most probable price, in terms of money, which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale effective on a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and each act in what they consider their own best interest;
3. a reasonable time is allowed for exposure in the open markets;
4. payment is made in cash or its equivalent;
5. financing, if any, is on terms generally available in the community as of a specified date. This financing should be typical for the property type in its locale;

6. the price represents a normal consideration for the property sold unaffected by special financing amounts and/or terms, services, fees, costs, and credits incurred in the transaction. Numerous definitions of *Market Value* have been devised over the years by professional organizations, government bodies, courts, etc.

Non-Conforming Use—a use which was lawfully established and maintained but which, because of a subsequent change of a zoning ordinance, no longer conforms to the use regulations of the zone in which it is located. A non-conforming building or non-conforming portion of the building shall be deemed to constitute a non-conforming use of the land upon which it is located. Such changes preclude additions or changes without municipal approval.

Owner—one who can exercise rights of ownership.

Pecuniary Position—a measure of monetary status.

Reimbursement—monetary restoration.

Super-Adequacy—a greater capacity or quality in a structure or one of its components than the prudent purchaser or owner would include or would pay for in the particular type of structure under current market conditions.

Severance Damage—the diminution of market value of the remainder area which arises in the case of a partial acquisition by reason of the acquisition (severance), and/or the construction of the improvement in the manner proposed.

Use Tract—refers to a portion of the larger tract that has a different highest and best use. Once the use tract is defined, each square foot within the tract is deemed to have the same value as the remainder of the use tract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§503. Overview of the Purpose of the Appraisal

A. The laws of Louisiana provide that just compensation must be paid for the value of real property or rights taken. The value of the real property or rights taken must be based on the premise of the "highest and best use" or the most profitable, legal and likely use for which a parcel of property may be utilized. The determination of such use may be based on the highest and most profitable continuous use for which the property is adapted, or likely to be used, for a reasonable future time. However, elements affecting value which depend upon events or a combination of events which, while possible, are not reasonably probable, should be excluded from consideration. Also, if the intended use is dependent upon an uncertain act of another person, the intention cannot be considered.

B. The appraiser should perform an analysis of the market demand giving consideration to the highest and best use. Where a property is composed of more than a single highest and best use, the appraiser must type, value and support each portion separately. Where different uses and values of property are being acquired, each use and corresponding value must be stated separately, thereby complying with state laws and compensating for the full value of the partial acquisitions. Based on the highest and best use, the appraiser must set forth a reasonable and factual explanation indicating his/her support, reasoning and documented conclusions.

C. The compensation shall include the fair market value of property acquired. Also to be included shall be compensation for damages caused to the remainder where only a portion of the property is acquired if, in fact, the damages are compensable under current Louisiana law. If any economic gains accrue to the remaining property as a result of the project, the estimated damages and/or other economic losses may be partially or wholly offset by those estimated gains.

D. Compensation will not be confined to the value of property acquired and damages, but shall include compensation to the full extent of the owner's loss. The owner shall be placed in the same financial position after the acquisition as before the acquisition.

E. All market data, comparable sales, forms, and documentation which are referred to within the report and are pertinent to the fair market value of the property being appraised shall be collected and shall cite the project and ownership for which the appraisals are being written. Simply referring to data used for other projects or appraisals is not acceptable.

F. All recognized appraisal procedures and approaches to value: i.e., the "cost approach", the "market approach" and the "income approach", that apply to the property under appraisal, are to be considered by the appraiser and utilized if found to be applicable. If an approach is found not applicable to the property being appraised, there shall be included a concise and detailed reasoning as to its shortcomings. The appraiser shall explain the reason(s) why, in the correlation of value, one or more approaches are more applicable to his/her estimate of market value, and/or why the other approach or approaches are less applicable to the property being appraised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§505. Conduct of Appraiser

A. Each appraiser is a representative of the Louisiana Department. It is important that he/she be courteous and considerate in dealing with the property owners or their representatives. This is particularly important since the appraiser may be the first Louisiana Department of Transportation and Development representative to make contact with the owners.

B. The appraiser shall include documentation to indicate the date and extent of his contact with the property owners. Should the appraiser fail to contact the owners, he/she shall document the efforts to locate the owners. It is recommended that contact be made initially by certified letter as a method of documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§507. Qualifications of Fee Appraisers

Upon the appraiser's initial request for a Fee Appraiser Application Packet, the Appraisal Division Chief will notify the appraiser of the receipt of the request and provide the necessary forms to be completed. Those forms will include a letter stating the minimum requirements to be considered for

employment by the Louisiana Department of Transportation and Development Appraisal Division. If the appraiser meets the qualification requirements of the Louisiana Department of Transportation and Development and is approved for employment, he/she will be included on the Approved Panel of Fee Appraisers. It is a minimum requirement for acceptance of Fee Appraisers on the Louisiana Department's Approved Panel of Fee Appraisers that the appraiser be a Certified Appraiser licensed pursuant to the Louisiana Certified Real Estate Appraiser Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§509. Application for Approval as Fee Appraiser

Application must be submitted to the DOTD Real Estate Appraisal Division Chief prior to inclusion of said appraiser on the Louisiana Department of Transportation and Development Approved Panel of Fee Appraisers. The form includes several general questions concerning the appraiser's personal and appraisal background in order to gain insight into the appraiser's experience, qualifications and training. Upon completion of the application and acceptance by the Appraisal Division, the Appraisal Division Chief will recommend to the Director of Real Estate that the appraiser be placed on the Approved Panel of Fee Appraisers. Upon approval, the Appraisal Division Chief will notify the appraiser of his/her approval and request that the appraiser read and sign one of two copies of the Agreement for Appraisal Services and return a single copy to the Appraisal Division for processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§511. Agreement for Appraisal Services

The Agreement for Appraisal Services is a document which every Fee Appraiser employed by the Louisiana Department of Transportation and Development is required to sign. The agreement sets out the parameters within which the Department of Transportation and Development and the appraiser will cooperate, as well as sets forth the details and requirements that must be met within the appraisal report. The appraiser should be very familiar with all of the requirements contained within this agreement. The signed form, after its execution, will be placed in the appraiser's file and need not be re-signed with each contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§513. Contract for Appraisal Services

A. The Contract for Appraisal Services is the form utilized by Louisiana Department of Transportation and Development in obtaining the services of Fee Appraisers on a given project. The contract sets forth the requirements for each appraisal requested and sets a completion date by which the assignment must be submitted. The contract binds the Louisiana Department of Transportation and Development and the Fee Appraiser until such time as the assignment is complete or the

contract has been terminated. However, work on a contract should not begin until a "Letter of Authorization" is received instructing the appraiser to begin.

B. The appraiser should examine the agreement in detail and should be particularly aware of the time element established within the contract. The Louisiana Department of Transportation and Development operates its construction program according to a schedule of contract letting and the appraiser's failure to meet the time requirement of the contract will damage the overall completion of a project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§515. Contract Extensions

It is the policy of the Louisiana Department of Transportation and Development that contract completion dates shall not be extended past the original due date. However, while all due diligence should be taken to meet the contract requirements, it is sometimes necessary to extend a contract. Just cause must be documented by the appraiser and a letter of request must be presented to the Louisiana Department of Transportation and Development Appraisal Division with adequate lead time to process the request through the appropriate channels prior to the contract completion date. In the event that a completion date is not met and an extension has not been granted, the contract will be considered void. Payment cannot be made for outstanding appraisals. At the discretion of the Appraisal Division, it may become necessary to contract with another appraiser to complete the project assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§517. Items Excluded from Appraisals

A. Typically, moving expenses of owners and tenants rightfully in possession of real estate are reimbursable in accordance with the Louisiana Relocation Assistance Law which provides for the reasonable expenses of moving personal property. The actual cost of moving expenses is provided by the Relocation Assistance Officer for use of the property owners or tenants, and is not determined by the appraiser. Therefore, no moving expenses for personal property should be included within the appraisal report under normal circumstances.

B. The following items should be excluded from the appraisal report:

1. moving expenses for personal property;
2. estimated costs of relocations; or
3. adjustments or repairs of such items as public utilities, service connections for water, sewer, mobile homes, additions, etc., which will be caused by the required acquisition unless those costs are included within the Contract for Appraisal Services as "cost-to-cure" items.

C. When appraising a commercial establishment, the appraiser is to include itemized relocation and business re-establishment costs within the "full extent" estimate if a relocation of the business and improvements is judged to be necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§519. Appraisal Formats

A. Appraisals are to be reported, in most cases, on Forms A, B or C. Form D will be used sparingly and only in the appraisal of certain small, vacant, minimally valued acquisitions.

B. All formats will include, in addition to the applicable pages listed within the individual formats; a Certificate of the Appraiser, comparable sales, improvements, floor plans and/or plot plans, flood maps, right-of-way maps provided by the Department, statement of limiting conditions, any references made during the report, a copy of the owner's notification letter and property inspection documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§521. Interest Being Appraised

The interest being appraised is full ownership, less mineral rights. Each appraisal will show an estimated value of the total interest held. No breakdown of individual interests, other than lease fee/leasehold interests, held in full ownership should be made, except as specifically instructed by the Department. However, servitude and/or similar encumbrances on properties being appraised should be investigated and reported within the appraisal report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§523. Highest and Best Use

A. In an assignment, it is required that the appraiser fully analyze the highest and best use of a parcel and include that analysis within the appraisal report as a detailed and concise narrative. There are locations where the highest and best use is obvious. At other locations, evaluation for highest and best use renders limited possibilities. If that is the case and a detailed analysis is not warranted, a less detailed written analysis is acceptable.

B. In cases where it is necessary to estimate the highest and best use of an improved parcel, the focus is on the existing use as well as all potential alternate uses. To correctly accomplish the goal, the appraiser must analyze the highest and best use as improved and as vacant.

C. Often, the existing use will be the highest and best use and that conclusion may be clearly obvious to the appraiser. The discussion within the report need not be as detailed as with a different or changing highest and best use.

D. The support of the appraiser's opinion is most critical in the not so obvious situations when the appraiser may need to respond to inquiries by the Reviewer Appraiser or an Attorney. Because the highest and best use determinations affect the value conclusion, an unsupported estimate of the highest and best use may lead to unnecessary and costly litigation for both the agency and the property owners.

E. When the highest and best use is estimated to be different from the existing use, the appraiser is essentially concluding that the present improvements no longer provide an acceptable return of the investment for that purpose. This generally occurs when the value of land in an area, due to changing conditions, increases to such a degree that it approaches or exceeds the value as improved. In cases such as this, a detailed analysis and discussion will be required utilizing accepted appraisal techniques.

F. The appraiser must substantiate the existence of demand for the proposed use; that the physical features of the property would accommodate that use; that the use is compatible with zoning requirements or a reasonable probability exists for re-zoning and there are no restrictions that would preclude that use.

G. Another item for consideration within the highest and best use evaluation is the recognition and adherence to the "consistent use theory". Basically, a property in transition to another use cannot be valued on the basis of one use for the land and another for the improvements. This may introduce the possibility of an interim use. Sometimes an improvement is not the proper improvement to maximize the value of the whole property. There may be some type of interim use of that improvement which may be utilized until such time as the land can be put to its highest and best use. This improvement may be valued by ascertaining the amount of temporary income derived during the interim period or a value based upon the use of the interim improvement for another highest and best use until a proper improvement can be justified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§525. Land Valuation

A. For the determination of land values, a careful and thorough investigation of sales of nearby comparable lands is to be made. The report is to include sufficient information to show that the appraised values of land are adequate, reasonable and well supported by actual comparable sales. Any adjustments made to a comparable sale will be fully supported and soundly reasoned based upon facts gathered within the local real estate market of the project assignment. In the case of a special use property or a limited local market, the appraiser may search for comparable data and utilize any data located outside of the actual market area of the subject project. These requirements apply to an "after value" appraisal as well.

B. When an appraiser is assigned to a project, he/she will be required to compile and submit a binder of comparable sales data. This is generally referred to as the "Master Binder". This Master Binder will be submitted by a prearranged date as set forth in the Contract for Appraisal Services or as verbally agreed upon between the Review Appraiser and the Fee Appraiser.

C. The Louisiana Department of Transportation and Development Appraisal Division may furnish market data forms to the appraiser upon request. These forms are to be

used in all cases to report the market data information developed by the appraiser. The appraisers may develop their own forms, but must include the information required within the Louisiana Department of Transportation and Development form.

D. It is not considered improper for an appraiser to obtain information about a sale from another appraiser, provided the information is limited to factual information such as vendor, vendee, consideration, recordation, date of sale and legal description. The comparable information received from another appraiser should not include any analysis of the comparable sales, i.e., breakdown of land and improvements, analysis of a time factor or any other adjustment. The appraiser of record, through verification or their own judgment, must determine those items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§527. Valuation of the Entire Tract

A. The value determined for an entire tract is to be the value before the acquisition of the required right-of-way absent any influence of the proposed project construction. The estimated value shall be determined on the date of the appraisal study unless the appraiser is otherwise instructed by the Project Review Appraiser or is instructed within the Contract for Appraisal Services.

B. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, is to be disregarded in determining the compensation for the required property.

C. Under most circumstances, the value estimate is to include the entire tract, based upon the highest and best use, and is to include all items of real property unless instructed otherwise within the Contract for Appraisal Services. The appraiser may include only a portion of a whole property if, in the highest and best use determination, he/she finds that the portion of the ownership affected by the taking is a separate "economic use tract"; the determination is supported and clearly understandable; and the Review Appraiser concurs in the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§529. Valuation of the Remainder

A. The value estimate attributed to the remainder is a separate and singular appraisal problem. The appraiser is required to perform a complete appraisal of the remainder.

B. Reference may be made to factual data contained within the "before" appraisal as it pertains to the "after" appraisal. However, the appraiser is to separately analyze and document the data to form his/her conclusions within the "after" appraisal.

C. The estimated value of the remainder is to be a realistic appraisal of value considering economic gains or losses caused

by the required acquisition and proposed construction. It is required that the appraiser employ all three approaches when they are applicable to the appraisal problem. If and when an approach is not considered applicable, justification shall be provided.

D. The remainder value is not simply a value representing the difference between the value of an entire tract or use tract less the value of the required right-of-way, but is a well-supported and carefully analyzed value estimate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§531. Valuation of the Improvements

A. When buildings or other improvements are located partially or wholly within the proposed right-of-way, the appraisal is to be made on the basis that the Louisiana Department of Transportation and Development will purchase the improvements. In rare situations, an appraisal will be made on the basis of the purchase of a portion of a major improvement or the cost to relocate a major improvement on-site. In such situations, the appraisal report must fully explain the justification for not buying the entire building. In assigning appraisals, the Project Review Appraiser will specify whether an improvement will be purchased or a "cost-to-cure" will be provided for the appraiser's use.

B. In the case of a severed building that is not specified as a "whole acquisition", the appraiser shall include within the report the cost to restore the remaining improvement to its former utility and usefulness. A "cost-to-cure" does not necessarily alleviate other damages to an improvement or a remainder. Other damages may include a loss of utility or a change in access.

C. In some instances, an improvement is located substantially outside of the right-of-way with only a minor portion projecting into the required area and removal of the portion within the right-of-way would leave the major portion of the building reasonably suitable for use on the remaining site. When estimating damages under this scenario, the appraiser will be required to consider the most feasible of the two following possibilities:

1. the remainder of the improvements may possibly remain adjacent to the right-of-way line with a possible loss of value due to their position relative to the new right-of-way, coupled with other possible damages as discussed above; or

2. the entire improvement may be moved to a more advantageous location on the remaining site. In this case, the damage estimate would be based on the cost of moving the improvement and restoring it to a new location. These costs will not exceed the damages which would occur if the basis of the estimate were a cost to re-face a portion of the improvement located within the right-of-way, nor will they exceed the cost to purchase the improvement as a whole.

D. The appraiser is to fully analyze each scenario and follow the path that is the most cost-effective in order to restore the owner to a pecuniary position equal to that before the acquisition. However, it will rarely be requested that a "cut and re-face" or "move back" cure be used. These types of cures will be utilized in only very special cases where other, better

accepted methods could not be utilized.

E. There may be within the proposed taking items that would be classified as part of the realty. These items may include machinery, fixtures, pumps, underground tanks, water or air lines, pump islands, etc. These items may be the property of a lessor or a lessee. If the appraiser's assignment is to include these types of items, the items shall be valued based upon their contributory value to the whole property. If these items are determined to be a liability, then the value estimate should reflect that determination as well. The determination as to which items will be included within the report will be made by the Project Review Appraiser with the input of the appraiser.

F. It is expected that appraisers employed by Louisiana Department of Transportation and Development will be qualified to estimate the cost of improvements generally encountered, such as residences and appurtenant improvements. The issuance of a contract by the Louisiana Department of Transportation and Development is sufficient evidence of the Department's approval of the appraiser's expertise in such circumstances. However, in certain instances, where high value improvements are to be acquired or affected, the Louisiana Department of Transportation and Development may obtain and furnish to the appraiser reproduction and/or replacement costs and/or "cost-to-cure" estimates by special agreement with a building contractor, professional engineer, registered surveyor, cost estimator or other specialist. In such cases, the use of special consultants will be provided in a separate employment agreement in which the consultant is identified and provisions are made for the consultant to be available for testimony in the event of condemnation proceedings. All required materials will be provided to the appraiser for use within the appraisal report if the appraiser so chooses.

G. Unless specifically provided for in the Contract for Appraisal Services, the Louisiana Department of Transportation and Development will not pay additional amounts above the fee per parcel established for services to compensate for quotes or services of contractors or other specialists obtained by the appraiser. The fee of the appraiser is to compensate for providing a complete appraisal satisfactory for the purpose of the Louisiana Department. The appraisal report shall comply with the Agreement for Appraisal Services and the Contract for Appraisal Services as stated. Any findings of a consultant employed to aid in making an appraisal must be included and clearly identified within the appraisal report if accepted by the appraiser. If the findings of the consultant are not acceptable to the appraiser, he/she will include his/her own supported estimate or the justification for providing items which are not utilized.

H. A partial acquisition may result in damages to a remainder property that may be reduced or eliminated by construction of access roads, relocation of driveways or some other design modification. When the appraiser feels justified in requesting a study to determine the feasibility of such modification, he/she may submit a request to the Project Review Appraiser for such modification. When merited, the Louisiana Department of Transportation and Development will provide the appraiser with the engineering and construction

costs to be weighed against damage items which may be mitigated. This procedure is intended to assure a realistic estimate of damage based upon "cost to cure" estimates which may or may not be practical from an engineering standpoint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§533. Role of the Cost Consultant

A. If necessary, the Appraisal Division may procure the services of individuals other than appraisal experts. Those persons are usually "Building Cost Consultants". These consultants are trained and/or experienced in the construction industry, with knowledge of and access to construction costs and related areas of expertise. The consultant may be asked to provide such items as reproduction and replacement costs, "cost to cure" items damaged by the required acquisition, or costs for comparison purposes which would not be included within an appraisal report. The cost consultant provides a service to the appraiser and the Louisiana Department of Transportation and Development and provides costs, as requested, and in conjunction with all other consultants who will utilize the estimate. The cost consultant is answerable to the Project Review Appraiser, as well as to the appraiser(s) of record.

B. The cost consultant is to work hand-in-hand with the appraiser and Review Appraiser. Although the cost consultant is the most qualified to judge construction costs, the appraiser is the person responsible for all values used within the appraisal report.

C. The cost consultant is required to contact all property owners and offer them the opportunity to accompany the consultant during the property inspection. In the case of the cost consultant, it is absolutely necessary to inspect all improvements due to the nature of the assignment. Only in very rare situations would it be possible to complete a consultant assignment without, at least, a rudimentary inspection of improvements. This would only be acceptable when an owner refuses entrance upon the subject site or within the subject improvements.

D. The responsibility for the use of a cost estimate, whether replacement cost, reproduction cost, "cost to cure", or other cost assignment belongs to the appraiser. It is absolutely necessary that the appraiser and the cost consultant work together. The cost consultant is responsible for the estimated costs if reproduction and replacement are issues.

E. The cost consultant and the appraiser must agree on the factual data, such as the size of the improvement, location upon the site, and minor improvements. When a "cost to cure" is required, the cost consultant must provide a method of cure that is approved by both the appraiser and Review Appraiser in order for the assignment to be acceptable and for payment to be made. Therefore, the cost consultant and the appraiser(s) should inspect the subject property together, if possible, and confer and compare factual data and proposed cures prior to submission of the contracted estimate for review. The provided reports shall contain a breakdown of the components required in a reproduction, replacement or "cost to cure" estimate and

shall quote a source of justification for said costs.

F. The appraiser, who is ultimately responsible for the costs quoted within his/her report will contact the Review Appraiser should a provided cost estimate not be suitable for inclusion within an appraisal report. However, the Review Appraiser should have made a determination prior to receipt of said report by the appraiser. The Review Appraiser will then contact the consultant and discuss the situation and the appraiser's concerns. Should it be found that revision is warranted, the cost consultant will be responsible for that revision. Payment for services rendered will be withheld until such time as acceptable revisions or corrections are submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§535. Appraisal Confidentiality

Contents of appraisals shall not be revealed to property owners, representatives of owners, or the general public. The information contained within the appraisal report is the property of the Louisiana Department. Any appraiser not adhering to this rule will be denied future employment by the Louisiana Department of Transportation and Development Real Estate Directorate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§537. Property Inspection with the Owner(s)

A. Reasonable effort shall be made to contact and meet with the owners or their designated representatives in order to afford them the opportunity to accompany the appraiser on inspection of the property being appraised. The appraiser is not obligated to meet the owner at any place other than the property being appraised or the nearest point of public access to the property being appraised.

B. Tasks for the Appraiser to Perform in Making Contact with the Owner(s)

1. Mail a form letter along with a stamped, addressed return envelope. All owners listed on provided Title Research Reports are to be afforded an opportunity to meet. A copy must be forwarded to the District Real Estate Manager, the Project Review Appraiser and must be included within the report. It is recommended that the letter to the owners be transmitted by certified mail.

2. Telephone contact is acceptable if it is followed by a detailed written report of owner contact, including the name of the person(s) contacted, time of meeting, and date. Copies must be sent to the Project Review Appraiser, the District Real Estate Manager and must be included within the appraisal report.

C. The site inspection shall not be made until the following criteria are met:

1. a meeting is scheduled with the owner(s) or;
2. the owner(s) replies that he/she/they do not wish to accompany the appraiser on the site inspection or;
3. three weeks have passed since the date of the notification letter mailing to the owner(s), there is no reply, and the letter is not returned "undeliverable".

D. The appraiser shall remain obligated to meet with the

owner(s) for an additional three weeks following the mailing of the notification letter if two separate written attempts have been made to contact the owner(s) at the address(es) furnished by the Louisiana Department of Transportation and Development and both letters are returned marked "undeliverable". After that time has elapsed, the appraiser is relieved of his obligation to meet with the owner(s).

E. The appraiser will notify the District Real Estate Manager and the Project Review Appraiser of any undeliverable notification letters within a period of five working days. The District Real Estate Manager will then have 15 working days from the notification by the appraiser to reply to the appraiser's request for any supplemental address data. The appraiser is to send a second owner notification letter if additional data is furnished by the District Office.

F. The meeting with the owner shall be on or near the property to be inspected, unless the appraiser agrees to meet elsewhere. The appraiser will inspect the property to be appraised and make every effort to meet with the owner(s) at a time that is convenient to the owner and reasonable for all parties involved. At the time of the scheduled meeting, the inspections should be completed, if possible. If the owner(s) fails to meet with the appraiser as scheduled, the appraiser will be obligated to set up a second meeting with the owner(s) and meet "after the fact". If the owner(s) does not meet with the appraiser for the second scheduled appointment, the appraiser is no longer obligated to meet with the owner.

G. The appraiser shall document any owner contact and site inspections and will make that documentation a part of the appraisal report within the addenda. Also, a photocopy of the notification letter to and from the owner(s) will be included within the addenda of the appraisal report. Telephone contacts made with the owner(s) should be documented by name, date, time, telephone number and subject of the contact. These items will also be included within the addenda along with the site inspection report that includes persons present, place, time and date.

H. In the appraisal of commercial or industrial properties under long-term lease, the lessee should also be afforded the opportunity to accompany the appraiser during his inspection of the property.

I. The appraiser shall go upon the property and into the buildings and interview the property owner, tenant or authorized representative and make an appraisal in accordance with the requirements of the Louisiana Department. The property owner must be given opportunity to offer his/her input, information and opinion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§539. Completeness of Appraisal and Appraisal Reports

A. The investigation is to be thorough and the appraisal report is to furnish adequate and reasonable information that fully explains and justifies determinations contained within the appraisal report.

B. The appraiser must complete all applicable appraisal criteria in accordance with the Louisiana Department of

Transportation and Development requirements and requirements of the "Uniform Standards of Professional Appraisal Practice", as set forth in the Agreement for Appraisal Services. Any departure shall require full justification.

C. Most of the fee appraisal work required by the Department of Transportation and Development involves properties required for projects in which federal funds are utilized. Therefore, all reports must meet Departmental and Federal Highway Administration (FHWA) requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§541. Establishment and Payment of Fees

A. Appraisal fees shall be established by the Project Review Appraiser based upon a fee estimate compiled during on-site inspection of the subject project. Concurrence will be obtained from the appraiser prior to submission of a Contract for Appraisal Services. The fee schedule will be contained within the Contract for Appraisal Services and will delineate between the fee for individual reports and the total contract fee established for the subject project.

B. Invoices submitted by the appraiser shall consist of three copies. Each shall include the date, state project number, federal aid project number (if applicable), project title, route number and parish. Also required within the invoice will be the contracted fee for each report submitted for disposition, a statement that payment has not been received for the submitted invoice and the appraiser's signature.

C. The Louisiana Department of Transportation and Development Appraisal Division will not process any invoice submitted by an appraiser for personal services rendered the Louisiana Department of Transportation and Development unless the fee has been previously established by written contract, approved by all necessary parties, and authorization to proceed has been forwarded to the consultant. Invoices may not be dated or forwarded to the Louisiana Department of Transportation and Development prior to the authorization date established within the Authorization to Proceed form letter submitted to the appraiser by the Louisiana Department of Transportation and Development Real Estate Director.

D. In addition, no invoice will be paid prior to approval by the Project Review Appraiser of the individual reports submitted. The reports must be found satisfactory and in conformance with the requirements of the Louisiana Department, as stated within the Contract for Appraisal Services and the Agreement for Appraisal Services. Any individual report found not to meet the necessary requirements as set forth shall be corrected by the appraiser to the satisfaction of the Project Review Appraiser prior to payment of the agreed upon fee for that particular project. No payment will be made for reports submitted following the contracted assignment completion date. At that point, the contract is voided and a new contract must be approved and authorization must be received through the established channels prior to payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§543. Update of Appraisals

A. It may become necessary for the appraiser to update appraisals from the original date of valuation to the current date or to a specified date of acquisition. If this should become necessary, the Project Review Appraiser will initiate a contract specifying the required date of valuation, the fee schedule and the completion date for the assignment. All contracts to update shall refer to a specific completion date in order to give ample time for the appraisals to be reviewed by the Project Review Appraiser prior to negotiations.

B. All updated appraisals in which there are value changes by reason of time lapse shall be supported by updated comparable sales data gathered within the project neighborhood. If sufficient sales data is not available within the subject neighborhood, the appraiser should investigate similar type properties in more removed areas as support for updated values.

C. Updated appraisals shall be submitted to the Appraisal Division for review and, if warranted, a revised Fair Market Value Estimate will be issued by Louisiana Department of Transportation and Development for the purpose of negotiation and acquisition. When the appraiser is required to revise, supplement or otherwise update the appraisal report, regardless of the format employed, a revised or updated "Certificate of Appraiser" shall be submitted with the revisions or updates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§545. Types of Appraisal Formats

A. Upon the receipt of approved right-of-way plans, the assigned Project Review Appraiser will make an on-site inspection and examination of each parcel on the project. Based upon that inspection, the Review Appraiser will determine which appraisal format shall be necessary for each parcel or parcels based upon the complexity of the appraisal problem. That determination will include:

1. the number of appraisals;
2. the format of appraisals;
3. the estimated fees;
4. the estimated appraisal contract completion date.

B. The Contract for Appraisal Services will include the parcel number, fee and the format for each appraisal to be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§547. Form A

A. This form is designed for a complete, detailed appraisal of an entire ownership, including all land and improvements, using all applicable approaches. In effect, this is two separate appraisals. The "before the acquisition" and "after the acquisition" appraisals pertain to partial acquisitions only. Each segment, "before and after", is to be completed in detail and separately. All approaches to value are to be utilized in detail when applicable. All economic gains or losses are to be

analyzed in detail and submitted within the report. "Cost-to-cures" will be compared to possible economic gains or losses in order to determine the feasibility of a proposed cure. Any feasibility study shall be included within the report.

B. The purpose of the format is to determine if any economic gains and/or economic losses have accrued to the ownership due to the partial acquisition. Any economic gains shall offset all or a portion of the compensation due for any severance damages and/or other economic losses. Economic gains may not offset the value of realty estimated within the required area except as authorized by *Louisiana Department of Transportation and Development of Highways vs. Bitterwolf*, 415 So. 2d 196.

C. All pages from the title page to the required exhibits shall be included in the report. At the discretion of the appraiser, additional pages may be included. The following pages are required.

1. "Before Acquisition" Analysis
 - a. Title Page
 - b. Table of Contents
 - c. Letter of Transmittal
 - d. Summary of Salient Facts and Conclusions
 - e. Basis for Summary of Fair Market Value
 - f. Title Data
 - g. Discussion of the Appraisal Problem
 - h. Photos of the Subject Property
 - i. Neighborhood Data
 - j. Site Data
 - k. Statement of Highest and Best Use
 - l. Comparable Land Sales and Listings Analysis
 - m. Correlation and Indication of Land Value
 - n. Improvements
 - o. Floor Plan
 - p. Market Data Approach to Value
 - q. Income Data Approach to Value
 - r. Cost Data Approach to Value
 - s. Source and Justification of the Cost Approach
 - t. Correlation of the Whole Property Value and Allocation of Value
 - u. Required Right-of-Way
2. "After Acquisition" Analysis
 - a. Site Data
 - b. Statement of Highest and Best Use
 - c. Comparable Land Sales and Listings Analysis
 - d. Correlation and Indication of Land Value
 - e. Improvements
 - f. Floor Plan
 - g. Market Data Approach to Value
 - h. Income Data Approach
 - i. Cost Data Approach
 - j. Source and Justification of the Cost Approach
 - k. Correlation of the After Value and Allocation of Value
 - l. Analysis of Other Economic Considerations (Full Extent)
 - m. Final Estimate of Value
 - n. Certificate of the Appraiser
 - o. Addenda
 - i. Assumptions and Limiting Conditions

- ii. Vicinity, Strip and Remainder Maps
- iii. Property Inspection Report
- iv. Owner Notification Letter
- v. Firm Maps
- vi. Others at the discretion of the appraiser

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§549. Form B

A. This form is designed as a complete, detailed appraisal of an entire ownership, including all land and improvements, using all applicable approaches, unless instructed to do otherwise by the Project Review Appraiser. This format is utilized most often to value an ownership that will be totally within a required area.

B. The following pages shall be required within the form. Other pages may be included at the discretion of the appraiser.

1. Title Page
2. Table of Contents
3. Letter of Transmittal
4. Summary of Salient Facts and Conclusions
5. Basis for summary of Fair Market Value
6. Title Data
7. Discussion of the Appraisal Problem
8. Photos of the Subject Property
9. Neighborhood Data
10. Site Data
11. Statement of Highest and Best Use
12. Comparable Land Sales and Listings Analysis
13. Correlation and Indication of Land Value
14. Improvements
15. Floor Plan
16. Market Data Approach to Value
17. Income Data Approach to Value
18. Cost Data Approach to Value
19. Source and Justification of the Cost Approach
20. Correlation of the Whole Property Value and Allocation of Value
21. Required Right-of-Way
22. Analysis of Other Economic Considerations (Full Extent)
23. Final Estimate of Value
24. Certificate of the Appraiser
25. Addenda
 - a. Assumptions and Limiting Conditions
 - b. Vicinity, Strip and Remainder Maps
 - c. Property Inspection Report
 - d. Owner Notification Letter
 - e. Flood Insurance Rating Maps
 - f. Others at the discretion of the appraiser

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§551. Form C

A. This form is designed to be used only for simple acquisitions where no apparent economic gains or losses will accrue to the remainder property other than minor "cost-to-cure" items. The form does not require detailed discussions of

the items listed, but the determinations made by the appraiser must be conclusive and based upon market support.

B. If, during the appraisal assignment, the appraiser finds that there are damages or benefits to the ownership by reason of the project, the appraiser is not to proceed with Form C but is to notify the Project Review Appraiser. The Review Appraiser will then decide which form to utilize and will amend the appraisal contract to reflect those changes by format and fee schedule. Furthermore, when utilizing this form, it will be necessary for the appraiser to include the following statement within the body of the Certificate: "No damages or loss to the remainder of the owner's property resulted from this partial acquisition, therefore, pursuant to R.S. 48:453(B), no 'after appraisal' is required."

C. The following pages are to be included within the report and may include others, within the discretion of the appraiser.

1. Title Page
2. Table of Contents
3. Letter of Transmittal
4. Summary of Salient Facts and Conclusions
5. Basis for Summary of Fair Market Value
6. Title Data
7. Photos of the Subject Property
8. Neighborhood Data
9. Site Data
10. Statement of Highest and Best Use
11. Comparable Land Sales and Analysis
12. Correlation of Land Value
13. Required Right-of-Way
14. Analysis of Other Economic Considerations (Full Extent)
15. Certificate of the Appraiser
16. Addenda
 - a. Assumptions and Limiting Conditions
 - b. Vicinity, Strip and Remainder Maps
 - c. Property Inspection Report
 - d. Owner Notification Letter
 - e. Flood Insurance Rating Maps
 - f. Others at the discretion of the appraiser

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§553. Form D

A. This form is designed for only the most simplistic appraisal problem and only the most necessary discussion is required. The form refers to the maximum value of the required area with which this form may be used, i.e. \$10,000. When utilizing this form, the appraiser is to include the following statement within the body of the Certificate: "No damages or loss to the remainder of the owner's property resulted from this partial acquisition, therefore, pursuant to R.S. 48:453(B), no 'after appraisal' is required."

B. The use of this form is determined by the Project Review Appraiser and is to include the following pages.

1. Summary Page
2. Site Data
3. Discussion of the Appraisal Problem and Title Data

4. Analysis of Other Economic Consideration (Full Extent)

5. Certificate of the Appraiser

6. Addenda

- a. Assumptions and Limiting Conditions
- b. Vicinity, Strip and Remainder Maps
- c. Owner Notification Letter
- d. Property Inspection Report
- e. Others at the discretion of the appraiser

C. All of the above-described forms are guides for submittal of acceptable appraisal reports. The appraiser may develop his/her own form, within reason. However, the form developed must include the information and detail required above and should be of the same basic format.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§555. Court Testimony

A new contract will be executed in accordance with the instructions of the Louisiana Department of Transportation and Development Attorney for the purpose of trial testimony. Any change in the original appraisal premise or appraisal format will require the written approval of both the Louisiana Department of Transportation and Development Real Estate Director, or his designee, and the General Counsel of the Louisiana Department of Transportation and Development Legal Division, or his designee. Any change in the estimated value of the subject property from the original valuation date will be justified in complete detail and documented within the appraisal report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§557. Right-of-Way Cost Estimates

A. It may become necessary to provide a Contract for Appraisal Services to an appraiser for the completion of a right-of-way cost estimate. These cost estimates are written estimates of the cost of acquiring right-of-way, including land, improvements, servitudes, damages and any contingencies for a proposed project. These cost estimates are handled on a "total project" basis and not by individual parcels, as is normally the case with an appraisal assignment. The degree of accuracy and the amount of supporting data required within the estimate will depend upon the amount of time which the appraiser has to complete the estimate and the amount of supporting data at his disposal.

B. The purpose of a right-of-way cost estimate is to provide a basis for decisions on the location of a proposed highway project and to provide a basis for allocation of funds for a future project.

C. The contract procedure for right-of-way cost estimates will be the same procedure as that for the appraisal contract. The Project Review Appraiser will issue the contract for the project and will be responsible for satisfactory completion of the assignment.

D. The appraiser is to determine what steps are necessary to complete the cost estimate. Due to varying degrees of accuracy required and the varying amounts of lead time in which the appraiser will have to complete the estimate, no

attempt should be made to explain the possibilities, techniques or methods of the procedure used. However, it is desirable to maintain a file of support data for future reference.

E. The Certificate of the Appraiser and other appraisal forms are not required for right-of-way cost estimates. However, the appraiser should compile his/her data in an orderly fashion complete with a summary page containing the components of the estimate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§559. Special Problems

A. Full Extent of the Owner's Loss. Compensation to the full extent of the owner's loss is constitutionally mandated. The main problem is separating traditional real estate appraisal work from the task of determining additional economic gains or losses not directly related to the real estate value. This section will attempt to re-examine definitions, as well as separate into components the five elements of the "full extent" concept.

B. Part Taken. R.S. 48:453(A) requires that "The measure of compensation for the property expropriated is determined as of the time the estimated compensation was deposited into the registry of the court, without considering any change in value caused by the proposed improvement for which the property is taken". In addition to statutory considerations, the decision in *Louisiana Department of Transportation and Development of Highways vs. Hoyt*, 284 So.2d 763 requires that compensation for the part taken not necessarily be that value for the entire tract if, in fact, there is a "higher and better use" tract. If the part taken comes from a severable tract which would have a higher and better use than the overall value for the parent tract, then the owner is entitled to that higher value for the part acquired.

C. Improvements. Traditional approaches to the valuation of improvements are usually adequate and no specific appraisal instruction is necessary. A common problem that occurs involves non-conforming improvements where the improvements do not contribute or contribute less to the highest and best use for the land, if vacant. For discussion of this concept in a reported lawsuit, see *Louisiana Department of Transportation and Development of Highways vs. Whitman*, 313 So.2d 918. A deduction should be made for depreciation as garnered from the market data obtained by the appraiser. The use of a straight age/life method of depreciation without empirical market support included within the appraisal report is not acceptable for use by Louisiana Department.

D. Severance Damages. R.S. 48:453(B) defines *severance damages* as "The measure of damages, if any, to the defendant's remaining property as determined on a basis immediately before and immediately after the acquisition, taking into consideration the effects of the completion of the project in the manner proposed or planned". This definition is traditional and contemplates only the diminution in value of the property, which may not be the entirety of damage sustained. See for further discussion the case of *Louisiana Department*

of Transportation and Development of Highways vs. Constant, 369 So.2d 699.

E. Other Economic Loss. R.S. 48:453(C) instructs that the owner shall be compensated to the full extent of his loss. The courts have defined this to mean that the owner shall be placed in the same position pecuniarily as though his property had not been acquired. Frequently the owner will not be able to purchase a physical replacement for property acquired or damaged for the compensation estimated to be severance damages. This can occur for a variety of reasons and gives rise to a compensable economic loss. See further discussion of this issue in *City of Shreveport vs. Standard Printing*, 427 So.2d 1304 and *Monroe Redevelopment vs. Kusun*, 398 So.2d 1159. Other economic losses may also be business losses. See further discussion of this issue in *Louisiana Department of Transportation and Development vs. Tynes*, 433 So.2d 809.

F. Other Economic Gain. The four items (part taken, improvements, severance damages and other economic loss) noted above may serve to overcompensate the landowner beyond his pecuniary loss. An example of this occurs when the landowner's facility is in need of physical maintenance, but the new facility relieves him of the cost of repairs to the old facility. "Betterment" may occur in a variety of ways and in some cases, the landowner may benefit if he is forced to move or go out of business. "Betterment" may occur when a landowner's rear land becomes front land.

G. The five components (part taken, improvements, severance damages, other economic loss and other economic gain) listed above represent both traditional, as well as new constitutional demands placed on the Department of Transportation and Development in attempting to estimate the full extent of the owner's loss. In some instances, the appraiser will not have all of the information necessary to make a complete estimate, but in every instance, the appraiser should realize that there are few quantifiable demands made by landowners that have not been held to be compensable. In any event, "full extent" is the sum of the first four items less the fifth. However, it should be remembered that economic gains may not offset or be deducted from the value of the realty located within the acquired area.

H. The "full extent of the owner's loss" does not generally apply to "owner-occupied" residential property because relocation assistance provided by the Louisiana Department's will compensate the owner for items other than the realty. However, the "full extent of the owner's loss" must be addressed. Should the appraiser find that circumstances dictate that relocation assistance does not fully address the loss, then additional compensation may be necessary. Normally, this concept will apply only to a business that is economically viable. In instances where a business is marginal at best or a losing proposition, the compensation afforded the owner for the realty may well be the "full extent of the owner's loss".

I. R.S. 48:443(B) states that "each estimator, in determining the extent of the owner's loss, shall consider the replacement value of the property taken." The appraiser must research the market and consider offers for sale in arriving at the estimated fair market value.

J. In an effort to standardize the process of determining additional financial compensation due, a policy has been adopted concerning determination of the estimated monies due the property owner. This policy states that the appraiser is to determine availability and cost of a functionally equivalent replacement facility in such cases where major improvements are acquired. A proposed replacement facility, if available, must be suitable for occupancy with only minor alterations and provide a like utility and, if necessary, location to the owner. There may be no adequate facility in the market or renovation may be determined to be too costly to justify a replacement facility. The appraiser must also estimate the cost, if possible, to replace the acquired improvements on the remainder site.

K. As another test of the compensation due, the appraiser is to determine the cost to purchase a new site and construct a new facility at that location or the possible rental/lease of a suitable facility.

L. Another method may be the replacement of a lost income stream with suitable compensation, in terms of money, to provide income in a like and reasonable manner as prior to the acquisition. The appraiser will then recommend the most suitable and cost-effective method to restore the owner to his/her previously enjoyed pecuniary position.

M. According to Louisiana Department of Transportation and Development policy, should a substantial difference exist between the estimated market value of a property and the cost of a functionally equivalent replacement facility, the appraiser will discuss the findings within the appraisal report. Should this difference prompt the need for an economic analysis of the validity of a business, the appraiser and the Project Review Appraiser will request, in writing, that consultants be employed to make a determination. There may be additional considerations involved, depending upon the situation or type of property or business involved. The appraiser is to also include an estimate of relocation costs and business re-establishment costs when it is deemed necessary to relocate or re-establish a business. The "full extent of the owner's loss" estimate is to be itemized within the report for the use and understanding of those who negotiate for the parcels.

N. The appraiser is to study all applicable alternatives to determine the most appropriate and cost-effective manner in which to place the owner in the same pecuniary position "after" the acquisition as "before" the acquisition. This study, as noted within the Contract for Appraisal Services, shall include the location of any available sites or buildings, and shall be included within the appraisal report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§561. Front Land/Rear Premise

A. It is the policy of the Louisiana Department of Transportation and Development that the "front land/rear land" premise of valuation shall not be utilized under normal circumstance. This is not an acceptable method of valuation in most circumstances.

B. Only in those situations where the present use or the demand within the immediate area is quantifiable will the front

use tract be valued separately from the remainder or rear land. In those cases where a front use tract valuation is justifiable, damages may not occur to the front use remainder when excess rear land is readily available to replace the lost front land. Should damages be determined to apply, the damage estimate will be based on the typically lesser rear land value.

C. There occasionally may be cases where the use of the "front land/rear land" premise is justifiable and will include damages to the front use tract. In such cases, it is suggested that the appraiser inform the Review Appraiser and/or the Appraisal Manager for his/her area of the situation prior to its use and that the use of the premise be fully supported by factual data within the body of the appraisal report submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§563. Mineral Rights

A. The Louisiana Department of Transportation and Development and the State of Louisiana do not generally acquire mineral rights. The property owner will retain the mineral rights beneath the area conveyed to the state. While the owner will be prohibited from exploring or drilling for or mining for oil, gas or other minerals of any kind within the area acquired, the owner may employ directional drilling from adjacent lands to extract such minerals, if possible. In cases where solid minerals are affected, i.e. those other than oil and gas, the appraiser, with the concurrence of the Review Appraiser, is to provide values for the affected minerals.

B. In some situations or markets, it may be typical to transfer mineral rights. If that occurs, the appraiser is to analyze the value of the rights transferred through the use of market sales and make adjustments, if warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§565. Timber Value

A. For assignments in which timber-producing lands are involved, particularly in areas where timber is grown for commercial purposes, it will generally be necessary to value the land and the timber separately. In some instances, it may become the responsibility of the appraiser to abstract the timber and land value from market sales of whole property timberland tracts. However, due to the specialized nature of timber appraisal, the Department of Transportation and Development will most often secure the services of a Registered Forester to supply the value of timber upon a project or particular site. In those instances, the appraiser will provide the value of the raw land and include the value of the timber, as provided by the forester, within the report.

B. In situations where the appraiser determines that the highest and best use of a tract is a greater use than timberland, the value of the timber will nevertheless be included within the report as an improvement item. However, at the appraiser's discretion, the contributory value to the "highest and best use" may be zero.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§567. Crop Value

Prior to appraisal assignments, a determination shall be made by Louisiana Department of Transportation and Development Real Estate Titles and Acquisition personnel stating whether there is sufficient time prior to the right-of-way acquisition to allow harvesting of crops planted within the required area. If there is adequate time, the Real Estate Titles and Acquisition personnel will not be required to consider the compensation for crops. If time is limited, the Real Estate Titles and Acquisition personnel will estimate the value of the crop, and that sum will be included in the approved offer. Typically, the appraiser will not be involved in estimating the value of crops unless specifically requested to do so by the Project Review Appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§569. Control of Access

A. Within the Contract for Appraisal Services, the Project Review Appraiser will instruct the appraiser concerning the proper appraisal format to use in order to value the ownership affected by "control of access". The appraiser, in most circumstances, will analyze the effects of "control of access" after the acquisition in the same way that he analyzes any "before and after" appraisal problem. A full analysis, with all due documentation as to findings, shall be included within the report.

B. All due diligence will be taken in consideration of the possible or probable use of a remainder that is influenced by "control of access". The appraiser should acquaint himself fully with the rights of the Louisiana Department of Transportation and Development and the rights of the owner concerning access control. In instances in which the Department of Transportation and Development exercises control of access, a legal determination as to the compensability or non-compensability must be made. The appraiser should consult with the Louisiana Department of Transportation and Development through the Review Appraiser, Project Engineers, District Managers, and the Legal Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§571. Owner's Refusal to Permit Entry

A. There may be times when a property owner refuses to permit appraisers employed by Louisiana Department of Transportation and Development to enter the property for an on-site inspection, measurement, photography or interview. In such cases, the following procedure applies.

B. The appraiser should not enter the property, but should make every effort to examine the property from as many vantage points as possible. The appraiser shall make a careful inspection of all available records including ASCS maps and aerial photographs, U.S. Geodetic Survey contour maps, tax records, building inspector records, etc. As many and varied photos should be taken as deemed prudent.

C. As a matter of procedure, the appraiser will notify the Project Review Appraiser of the situation and clearly set forth that he/she was not permitted to enter upon the property and that the report is predicated upon certain assumptions. Those assumptions shall be noted. Also to be listed will be the sources of information used as a basis for those assumptions.

D. When the appraisal report is forwarded to the Appraisal Division for review, a determination will be made by the Project Review Appraiser as to whether or not to pursue legal action to obtain access to the property. The Project Review Appraiser will make every effort to inspect the property from any vantage point possible prior to forwarding a recommendation of action.

E. When the appraisal is approved and the recommended offer is furnished for processing, negotiation will be initiated on that basis. The Real Estate Titles and Acquisition Agent conducting the negotiations will make every reasonable effort to observe the property in question for the purpose of further verification of the appraiser's assumptions. If radical variation appears to exist, the Appraisal Division will be advised before continuing the negotiations. If the recommended offer is not accepted, eminent domain proceedings will commence and entry by court order will be obtained at that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§573. Lease Interests

A. The appraiser is to inquire concerning leases of subject properties whenever that possibility exists. That inquiry most particularly applies to improvements owned by a lessee. A review of a lease will be made by the appraiser so that he/she is familiar with the terms and conditions of the lease. Any findings or conclusions shall be included within the appraisal report.

B. The appraiser is to value the whole property and is to establish the value to be assigned to each interest in that ownership. The appraiser is to value all lease fee and leasehold interests and is to provide a breakdown of those values within the appraisal report. The appraiser is to include the portion acquired and estimated damages, should they apply.

C. In situations in which a lease is recorded, that information will be supplied within the provided Title Research Report. Discovery of unrecorded leases are the responsibility of the appraiser. The appraiser shall inquire as to the existence of such leases and shall provide an opportunity for such disclosure to the property owner within the required Owner Notification Letter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§575. Fencing Value

A. Front fencing owned by the property owner is to either be bought, rebuilt or replaced if it is of contributory value to the land. Front fencing will normally be replaced or rebuilt by the project construction contractor on the owner's property in order to restore the enclosure.

B. Side (cross) fencing will be removed and will not be

replaced. Compensation will be paid for said fencing. All fencing, whether front or side, is to be valued within the report and delineated by parcel and orientation.

C. Fencing used for other than the containment of livestock will be rebuilt or replaced unless the right-of-way is acquired by negotiations and the property owner requests payment for the contributory value estimated. If the right-of-way is acquired by expropriation, the value is deposited in the registry of the court. In either instance, the existing fence will be removed by the project construction contractor.

D. All fences constructed on controlled access highways for the purpose of controlling access will be built and maintained by Louisiana Department. Fences built along frontage roads or cross roads on controlled access facilities for the benefit of the property owner will be built off the highway right-of-way and will be maintained by the property owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§577. Servitude

A. There are two types of servitudes commonly encountered by the appraiser that must be included in the valuation process of the appraisal. They are the "construction" servitude and the "drainage" servitude.

B. The "construction servitude" is a temporary servitude providing access for construction purposes to areas outside the required right-of-way. The compensation for this servitude is based upon the estimated unit land value multiplied by a rate set by the appraiser. That figure is then multiplied by the area within the servitude. The rate utilized is a rate of return that is consistent with investment return rates commonly accepted within the current local market. The appraiser is to apply the calculated estimate on a yearly basis as a rental. That rental is to be included within the estimate of the just compensation.

C. The "drainage servitude" is a permanent servitude acquiring a number of rights. The acquisition partially includes right-of-entry and subsurface rights other than mineral rights. The ownership is greatly limited by the nature of the usage, and compensation will be greater than that estimated for the construction servitude. The process of calculation is identical to that of the construction servitude, however, the rate utilized will be based on the permanent loss of rights. Generally, 80 percent to 90 percent rates will be used. Ultimately, the appraiser will decide upon the value of the rights taken and to what extent they will be permanently lost. This value will be included within the estimate of the just compensation. In circumstances where a remaining area of an ownership is damaged due to a partial acquisition, estimated damages to any permanent servitude will apply only to that portion of the bundle of rights that remain after the acquisition of the rights required of the servitude.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

§579. Railroad Parcel Acquisition

A. The Louisiana Department of Transportation and Development will pay the appraised market value of the interest acquired from railroad companies for any additional

right-of-way required from their right-of-way property.

B. Railroad parcels will be divided into two categories. One will be designated an "RR" parcel at railroad crossings. Any other takings from railroad properties will have a normal parcel identification for which the Department of Transportation and Development will offer the estimated market value for interest acquired. Louisiana Department of Transportation and Development will acquire the "RR" parcels as right-of-way servitudes with the railroad company retaining its rights for railroad passage at the Department's proposed joint crossings. Designation and appraisal of the railroad acquisition at crossings as servitudes is to allow the compensation for only those rights acquired. Only those rights acquired should be compensated for within the appraisal.

C. The Louisiana Department of Transportation and Development Appraisal Division is responsible for establishing the value of the various types of railroad acquisitions. The appraisal of railroad properties is based on market value and the interest acquired from the railroad companies. The appraiser should take into consideration the following:

1. size and shape of the railroad ownership;
2. topography;
3. location;
4. adjoining usage;
5. value of the required area before construction versus value after construction; and
6. any adverse effect that the acquisition will have on the utility of the property.

D. The types of acquisitions from railroad properties will be appraised as follows.

1. At crossings, the Louisiana Department of Transportation and Development will obtain a bundle of rights similar to the rights which the railroad company will be retaining. In most cases, the appraisal of a right-of-way crossing should reflect a value range of zero to a maximum of 50 percent of fair market value. However, the actual percentage of value will be estimated by the appraiser. The type of construction at crossings could have a varying effect upon the percentage utilized. The different types of construction at crossings are as follows:

a. Grade crossings are those where railroad tracks and proposed roadways are at the same level. This type of construction could have the greatest effect upon the utility of the property.

b. Above grade construction or an overpass should have little effect on the utility. However, consideration should be given to pier placement and its adverse effects, if any, on the railroad property.

c. Below grade construction or an underpass is the third type of possible construction at crossings.

2. All other acquisitions from railroad right-of-way in excess of crossings shall be appraised and the estimated market value will be offered in relation to the interest that the Louisiana Department of Transportation and Development acquires. In most cases, the Louisiana Department of Transportation and Development will appraise and offer 100 percent of market value. However, in the case of servitude acquisition, the Louisiana Department of Transportation and

Development will offer compensation in accordance with the interest estimated to be acquired by the appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this notice to James Dousay, Director, Real Estate Section, Department of Transportation and Development of Transportation and Development, Box 94245, Baton Rouge, LA 70804-0245, Telephone (225) 237-1214.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Appraisal Handbook for Fee Appraisers**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to state or local governmental units because the Department has conformed to these procedures since 1982.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of the implementation of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The contract fee appraisers will benefit from this rule because their qualifications for employment are clearly set forth. They are required to receive certification from the Louisiana Real Estate Commission, which costs \$345.00 the first year, \$270.00 biannually thereafter.
The public will benefit insofar as the program is set up to be conducted fairly and give the affected landowners the benefit of a fair process.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no effect on competition and employment because the Department has conformed to these procedures since 1982.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

9901#059

Robert E. Hosse
Director
General Government Section
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

House of Representatives Committee on Labor and Industrial Relations January 6, 1999

Office of Workers' Compensation—Hearing Rules
(LAC 40.I.5525, 5703, 5813, 5819,
5953, 6001, 6101, 6203 and 6505)

On January 6, 1999, pursuant to the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the House Committee on Labor and Industrial Relations met for the purpose of determining acceptability of proposed rules of the Louisiana Department of Labor, Office of Workers' Compensation. Those rules provide procedural guidelines for the workers' compensation court.

Members of the committee determined unanimously to find all proposed rules acceptable at this time with the exception of the following sections, which were severed and found unacceptable by a separate unanimous vote: §§5525, 5703, 5813, 5819, 5953, 6001, 6101, 6203, and 6505.

The committee members at the meeting found that it was unadvisable to accept these sections as written. The committee determined these sections to be unacceptable and suggested the following changes.

- §5525.A Add qualifications necessary for ad hoc judges being considered for appointment
- §5703.A Delete in its entirety: "A. A claim for medical care or services may be deemed premature if the

claimant has failed to complete utilization review prior to filing the claim. Nothing in this section will preclude a claimant from filing a claim before the prescription period expires in order to preserve his rights."

- §5813.F On line 1, delete "Only one" and, after "permitted" add the following: "for good cause shown"
- §5819.D On line 2, change "shall" to "may", and delete "for"
- §5953.A On line 1, after "employer", add the following: "insurer or its representative". On line four, after the words "thirty days", insert a period and delete the remainder of the paragraph.
- §6001.A On line 1, change "schedule" to "conduct"
- §6101.D On line 1, after "employee's request to", add the following: "select a treating physician or"
- §6203.A On line 9, after "himself", add the following: "as well as subjective complaints offered into evidence"
- §6505.A Delete in its entirety"(2) Time and labor required as detailed on a time sheet describing time incurred on the case as contemporaneously recorded;"
- §6505.B Starting on line 5, delete the following sentence: "A contradictory hearing shall be held at which time additional testimony and argument may be presented by the disputing parties."

I respectfully request that you allow the action of this committee to stand.

Charles W. DeWitt
Chairman

9901#063

Legislation

LEGISLATION

State Legislature House of Representatives

House Concurrent Resolution Number 94 of the 1997
Regular Session—Charitable Bingo, Keno and Raffle
(by Representative Windhorst)
(LAC 42.I.1703)

(Editor's Note: House Concurrent Resolution No.94 of the 1997 Regular Session of the Louisiana Legislature is being published in this issue. It was received by the Office of the State Register on January 11, 1999.)

A CONCURRENT RESOLUTION

To amend the Department of Public Safety and Corrections, Office of State Police, Division of Charitable Gaming Control rule (LAC 42:I.1703(A)(21)), which provides for the length of charitable gaming sessions, to allow for two-hour sessions and to direct the Louisiana Register to print the amendment in the Louisiana Administrative Code.

WHEREAS, the Charitable Raffles, Bingo and Keno Licensing Law was enacted in 1968; and

WHEREAS, the Louisiana Legislature from 1990 through 1992 authorized gaming upon riverboats along designated waterways, gaming at a land-based casino, the operation of video draw poker devices, and the conducting of a state lottery; and

WHEREAS, in a period of seven years the state of Louisiana has experienced a great interest in and proliferation of gaming activities and legislation dealing with gaming activities; and

WHEREAS, charitable raffles, bingo, and keno gaming activities serve as valuable mechanisms generating revenue for deserving charitable organizations vital to the welfare of the people of the state of Louisiana; and

WHEREAS, the amount of money being spent on all gaming activities is limited and, given the recent increase in legalized gaming activities and subsequent interest in these activities, the charitable gaming industry has suffered a tremendous drop in attendance and participation and a resulting decrease in revenue generation for charitable organizations; and

WHEREAS, the legislature has attempted to improve the viability of charitable gaming by upgrading the games offered and enacted provisions authorizing electronic video bingo games, progressive bingo games, and electronic pull-tab device operation; and

WHEREAS, despite these attempts the charitable gaming industry has continued to suffer and ways to improve the efficiency of the games are constantly being sought; and WHEREAS, LAC 42:I. 1703(A)(21) provides that a charitable gaming "session" represents authorized games of chance

played within a time limit of four consecutive hours, within the same calendar day, with a minimum of twelve hours between sessions; and

WHEREAS, it would be more efficient to allow a session to be two consecutive hours or four consecutive hours and to allow the decision to be made by the licensee conducting the games; and

WHEREAS, anything that will help the charitable gaming industry and the state of Louisiana's charitable organizations is worthy of every consideration; and

WHEREAS, R.S. 49:969 provides that "the legislature, by concurrent resolution, may suspend, amend, or repeal any rule or regulation or body of rules or regulations adopted by a state department, agency, board, or commission".

THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC 42:I.1703(A)(21) is hereby amended to read as follows:

§1703. Definitions

A. As used throughout this Chapter, the following definitions apply:

* * *

21. *Session*—represents authorized games of chance played within a time limit of two consecutive hours or four consecutive hours, within the same calendar day, with a minimum of 12 hours between sessions. The four-hour session limit shall not apply to sessions held in conjunction with a bona fide fair or festival on property where no rent is paid for the session and payout of prizes is determined by the number of persons playing. Sessions are limited to not more than one session per day per licensee. In no instance shall the total prize amounts exceed \$4,500 per session without a special license. A session of keno or bingo, when the licensee possesses a special license, is limited to six consecutive hours.

* * *

BE IT FURTHER RESOLVED that a copy of this Resolution by transmitted to the office of the Louisiana Register; the office of the attorney general, gaming division; and to the Department of Public Safety and Corrections, office of state police, division of charitable gaming control.

BE IT FURTHER RESOLVED that the Louisiana Register is hereby directed to have the amendments to LAC 42:I.1703(A)(21) printed and incorporated into the Louisiana Administrative Code and transmit a copy of the revised rules to the Department of Public Safety and Corrections, office of state police, division of charitable gaming control.

Hunt Downer
Speaker of the House of Representatives

Randy L. Ewing
President of the Senate

9901#062

Administrative Code Update

CUMULATIVE: JANUARY - DECEMBER, 1998

LAC Title	Part.Section	Effect	Location LR 24 Month Page	LAC Title	Part.Section	Effect	Location LR 24 Month Page
4	VII.Chapter 1	Amended	Feb 329	28	I.103	Adopted	Aug 1496
	VII.911	Amended	May 936		I.105,107	Amended	June 1092
	VII.1223	Amended	Oct 1930		I.107	Amended	Feb 282
	VII.1229	Amended	Oct 1928		I.901	Amended	Oct 1896
	VII.1231	Amended	Sept 1766		I.903	Amended	Nov 2078
	VII.1237	Amended	Sept 1765		I.903	Amended	Nov 2079
	VII.1239	Amended	Sept 1762		I.904	Adopted	Sept 1683
VII.1317	Amended	June 1110	I.906	Amended	Feb 295		
7	I.201-205	Adopted	Apr 626	I.907	Amended	Nov 2081	
	V.Chapter 16	Adopted	Apr 627	I.909	Repromulg	Feb 283	
	V.2101-2115	Adopted	June 1081	I.917	Amended	Nov 2080	
	XV.314, 321	Amended	Dec 2231	I.917	Amended	Nov 2088	
	XXI.101,305,307-311	Amended	Sept 1677	I.919	Amended	Mar 434	
	XXI.1501-1523	Adopted	Feb 282	I.930	Adopted	Feb 296	
	XXI.1501-1523	Amended	Sept 1671	I.930	Amended	Nov 2088	
	XXIII.Chapter 1	Amended	Feb 280	I.1523	Amended	Feb 297	
	XXIII.143	Amended	Nov 2076	I.1709	Amended	Feb 296	
	XXV.121	Amended	Apr 631	IV.Chapters 1-21	Adopted	Apr 631	
	XXV.163	Adopted	July 1262	IV.Chapters 1-7, 9-21	Amended	Oct 1897	
	XXVII.101-149	Amended	Apr 624	VI.301, 703, 803	Amended	Dec 2237	
	XXXV.101,129	Amended	Aug 1495	IV.Chapter 8	Adopted	Oct 1897	
	XXXIX.101	Amended	June 1081	V.Chapter 1	Amended	July 1262	
	XXXIX.101	Amended	Nov 2075	VI.101-105	Repromula	July 1267	
XXXIX.103-111	Adopted	Nov 2075	VI.107	Amended	July 1267		
XXXIX.Chapter 13	Adopted	Sept 1678	VI.Chapter 3	Amended	July 1267		
8	I.101	Adopted	Nov 2077	VI.301	Amended	Mar 436	
				VI.309	Amended	Dec 2238	
10	XV.503	Adopted	June 1083	31	II.301	Adopted	Oct 1921
					III.Chapter 7	Amended	Oct 1922
13	I.Chapter 70	Adopted	Mar 428		III.737,739	Repealed	Oct 1922
				33			
16	II.105	Amended	Sept 1783		I.503	Repromug	June 1093
				I.Chapter 13	Adopted	Dec 2243	
19	II.Chapter 1	Adopted	Mar 430	I.3931	Amended	July 1288	
	II.901	Amended	Mar 430	I.Chapters 45-47	Adopted	May 917	
	II.903-915	Adopted	Mar 430	III.Chapters 5-25	Amended	July 1284	
22	I.103	Amended	Feb 342	III.509	Amended	Apr 653	
	I.335	Adopted	Jan 103	III.511	Adopted	May 913	
	I.337	Adopted	Dec 2308	III.603	Amended	Dec 2239	
	III.5501	Adopted	May 936	III.1109	Amended	Apr 652	
	III.Chapter 61	Adopted	May 935	III.Chapter 14	Amended	July 1279	
	V.Chapter 1	Amended	June 1132	III.1431,1434	Amended	Sept 1683	
	XI.101-121	Amended	Dec 2292	III.1434	Repromulg	Oct 1925	
	XI.123-131	Repealed	Dec 2292	III.1509	Amended	Dec 2241	
	XI. Chapter 3	Adopted	Dec 2292	III.Chapter 21	Amended	Jan 20	
	XI.Chapters 5-19	Adopted	Dec 2292	III.2103	Amended	Dec 2242	
	XIII.103	Amended	Feb 327	III.2117	Amended	Feb 298	
	XIII.501	Repromulg	Feb 327	III.2139	Amended	May 917	
	XIII.503	Amended	Feb 327	III.2801	Amended	Sept 1686	
				III.2807	Amended	Dec 2239	
				III.3003	Amended	Dec 2238	
25	III.103	Amended	Dec 2233	III.5101-5112	Amended	July 1276	
	III.105	Amended	Dec 2235	III.5116,5122,5311	Amended	July 1277	
	VII.3103,3107,3109	Amended	Dec 2232	III.5122	Amended	July 1283	
	VII. 3111,3113	Adopted	Dec 2232		Amended	Dec 2240	

LAC Title	Part.Section	Effect	Location LR 24 Month	Page	LAC Title	Part.Section	Effect	Location LR 24 Month	Page	
33	III.5151	Amended	Jan	27	46	XIII.Chapters 1-29	Amended	July	1306	
	III.5901	Amended	Apr	651		XIII.3103,3107,3109	Amended	July	1306	
	V.Chapters 1-49	Amended	Apr	654		XV.105,2307,2537,2725,2907	Amended	Dec	2282	
	V.Chapters 1-49	Amended	June	1093		XV.3711,3717,4501,5333	Amended	Dec	2282	
	V.1-25,29-32,35,41,43,49,53	Amended	Sept	1686		XV.5507,6507,6913-6917	Amended	Dec	2282	
	V.105,501	Amended	Feb	298		XV.7105	Adopted	Dec	2282	
	V.105,305,1501,2201	Amended	Sept	1758		XIX.Chapter 7	Amended	Mar	458	
	V.322,1803,1915, 2315, 2809	Amended	Dec	2243		XIX.Chapter 43	Adopted	Jan	102	
	V.2201,2227	Amended	Feb	298		XIX.Chapter 43	Amended	Nov	2126	
	V.2911,3207,3309,3322	Amended	Dec	2244		XIX.Chapter 45	Repromulg	Dec	2282	
	V.3105	Amended	Feb	298						
	V.3105	Repromug	July	1289		I.905	Amended	Dec	2236	
	V.3507,3515,3521,4373	Amended	Dec	2243		I.1115	Amended	Dec	2236	
	V.4379,4385,4389,4475	Amended	Dec	2243		I.1115	Amended	Jan	18	
	V.4705	Amended	Dec	2243		I.1117	Amended	May	910	
	V.Chapter 38	Amended	Sept	1758		I.1335	Amended	Jan	18	
	V.3801,3915	Amended	Aug	1496		V.2701,2703,2901,2905	Amended	Sept	1682	
	V.3881,3883	Adopted	Feb	298		V.2810	Repealed	Sept	1682	
	V.4901	Amended	Feb	298		V.8501-8513	Amended	July	1295	
	V.4905	Amended	Feb	298		XXXIII.Chapters 1-17	Amended	June	1112	
	V.10303	Amended	May	956		XXXIII.312	Adopted	Aug	1497	
	V.Chapter 301	Amended	July	1313		XXXIII.710,714	Repromula	July	1292	
	VII.10407	Amended	Jan	27		XLI.709	Amended	May	912	
	IX.1113	Amended	Apr	687		XLV.415, 417	Amended	Aug	1500	
	IX.1123	Amended	Oct	1925		XLV.1359,1361	Adopted	Aug	1500	
	IX.Chapter 13	Amended	Feb	326		XLV.1517	Amended	Aug	1498	
IX.2201-2213	Amended	Jan	28	XLV.1945,1947,1975	Amended	Aug	1499			
XV.102,421,1743	Adopted	Dec	2242	XLV.2541,2543,2565	Amended	Aug	1502			
34	III.901	Adopted	Feb	333	XLV.3103-3179	Amended	May	937		
	V.10303	Amended	Dec	2321	XLV.3741,3743,3763	Amended	Aug	1498		
	IX.Chapters 1-31	Amended	Jan	30	XLVII.Chapters 31-43	Amended	July	1293		
	IX.103	Repealed	Jan	30	LIII.717, 719, 721	Amended	Dec	2256		
	IX.503	Repromulg	Jan	30	LIII.1111	Amended	Apr	692		
	IX.1703-1707	Repromulg	Jan	30	LIII.Chapter 14	Adopted	Apr	689		
	IX.2303	Adopted	Jan	30	LIII.2929	Amended	Apr	688		
	IX.2715,2723,2735	Amended	Nov	2121	LIII.3531	Amended	Apr	689		
	XV.Chapters1-7,10,13	Amended	Nov	2089	LV.305	Amended	Oct	1948		
	XV.Chapter 17	Adopted	Nov	2089	LV.311	Adopted	Oct	1948		
	35	I.315	Amended	May	912	LVI.512	Amended	Sept	1769	
		I.1733	Amended	Sept	1681	LX.503	Amended	Mar	437	
		XI.9937	Amended	May	912	LX.503,703,705	Amended	Nov	2124	
		XIII.11113	Repealed	Oct	1896	LX.703,705,801	Amended	July	1293	
37		III.505	Amended	Feb	333	LX.901	Amended	Mar	448	
	III.703,707	Amended	June	1111	LX.Chapter 21	Amended	Mar	438		
	IX.101-123	Amended	Apr	624	LXI.1903	Adopted	Nov	2151		
	40	XIX.101-113	Adopted	Dec	2253	LXI.2001-2021	Adopted	Nov	2151	
42		III.115,116	Adopted	Apr	695	LXVII.3401-3405	Amended	Jan	19	
		XI.2405	Amended	May	956	LXVII.3407-3411	Repealed	Jan	19	
		XI.2415	Adopted	Aug	1504	LXIX.Chapter 45	Repromulg	Dec	2282	
		XIII.1701,2133	Amended	Feb	344	LXXXV.106	Amended	May	940	
	XIII.2141,2169	Amended	Feb	344	LXXXV.305	Amended	May	941		
	XIII.2329	Adopted	May	956	LXXXV.700	Amended	Dec	2256		
	XIII.2721	Amended	July	1315	LXXXV.700,701	Amended	May	941		
	XIII.2721	Repromulg	Aug	1503	LXXXV.700,702	Amended	May	940		
	XIII.3301	Amended	May	956	LXXXV.700,705,707	Amended	Oct	1932		
	XV.105	Amended	Sept	1762	LXXXV.704	Amended	Feb	334		
43	I.850-859	Adopted	Dec	2288	LXXXV.711	Repromulg	Jan	41		
	XI.Chapter 3	Amended	Feb	339	LXXXV.711	Amended	Nov	2123		
	48					LXXXV.1063	Amended	Feb	335	
					LXXXV.1103	Amended	July	1293		
					LXXXV.1105	Amended	May	942		
48					I.Chapter 23	Adopted	July	1304		
					I.Chapter 25	Adopted	Mar	449		

LAC Title	Part.Section	Effect	Location LR 24 Month Page	LAC Title	Part.Section	Effect	Location LR 24 Month Page	
48	I.Chapter 27	Adopted	May 948		III.402,407	Adopted	July 1322	
	I.Chapter 43	Amended	Jan 109		III.403,405	Adopted	Jan 106	
	I.4523	Amended	Oct 1946		III.Chapter 11	Amended	Feb 349	
	I.4561	Amended	Feb 336		III.1104	Adopted	Dec 2325	
	I.5301-5325	Repealed	Dec 2345		III.1115	Amended	Jan 107	
	I.5301-5325	Repromulg	Dec 2345		III.1118	Amended	Sept 1781	
	I.5327,5329	Adopted	Dec 2345		III.1141,1143	Amended	Feb 348	
	I.Chapter 82	Amended	Dec 2257		III.1301-1303	Adopted	July 1323	
	I.Chapter 88	Amended	Dec 2326		III.1503	Amended	Feb 349	
	I.Chapters 97,98,99	Adopted	Jan 44		III.1701,Chapter 19	Amended	Jan 107	
	V.7707-7719	Adopted	Sept 1767		III.1707,Chapter 19	Amended	Sept 1782	
	V.7801-7811	Adopted	Apr 692		III.1994,1995	Amended	Feb 354	
	V.Chapter 137	Amended	May 942		III.2005	Amended	Dec 2326	
	V.Chapter 151	Adopted	Oct 1933		III.Chapter 25	Amended	May 957	
	IX.511	Adopted	Feb 335		III.2514	Amended	Apr 703	
	XXV.Chapter 3	Adopted	June 1123		III.2525	Amended	Oct 1954	
	50	II.10147	Amended		May 954	III.2751	Repealed	May 958
II.10155		Amended	Mar 457	III.2901,2913	Amended	June 1134		
				III.2907	Amended	Sept 1781		
				III.2909	Amended	Feb 349		
52	I.101	Amended	Oct 1893	III.3701,3704	Adopted	Feb 349		
	Chapter 17	Adopted	Oct 1893	III.3705	Repealed	Feb 349		
55	I.1511-1543	Amended	Jan 105	III.3707-3710	Adopted	Feb 354		
	III.100-111,115,117,119	Amended	Dec 2312	III.4704	Adopted	Oct 1953		
	III.118	Adopted	Dec 2312	V.401	Amended	Apr 702		
	III.125,129-133	Amended	Dec 2312	VII.107,115	Amended	May 958		
	III.147-151	Adopted	Dec 2312	VII.Chapter 2	Adopted	Oct 1954		
	III.171-181	Adopted	July 1316	VII.305,307,329,331	Amended	Mar 494		
	III.351,355,365	Amended	Mar 475	70	I.144	Adopted	May 960	
	III.808	Amended	Mar 476		I.515	Adopted	May 960	
	III.Chapter 15	Adopted	Feb 345		I.1101-1103	Adopted	July 1324	
	III.Chapter 17	Adopted	Mar 472		III.1901	Adopted	June 1135	
	III.Chapter 17	Adopted	Sept 1769	IX.Chapter 9	Amended	Aug 1504		
	III.Chapter 19	Adopted	Dec 2317	71	I.301-305	Adopted	Aug 1518	
	V.521-553	Adopted	Apr 695		III.1101-1107	Adopted	Oct 1960	
	VII.125,127	Repealed	Sept 1769		VII.Chapters 1-17	Adopted	Oct 1961	
	VII.321	Amended	July 1318		73	I.103,1103	Amended	Aug 1517
	VII.501	Adopted	Apr 702	III.Chapter 3		Adopted	Apr 703	
	VII.501	Amended	Oct 1949	76		I.149	Amended	Mar 505
	VII.503-509	Adopted	Oct 1949			I.327	Adopted	Mar 505
	VII.3101-3113	Adopted	July 1319		V.117	Adopted	June 1140	
IX.107,175	Amended	Dec 2311	V.117		Repromulg	July 1325		
IX.Chapters 1-2	Amended	Mar 459		V.307	Repealed	Nov 2155		
IX.Chapter 12	Repealed	Mar 459		V.335	Amended	June 1138		
XIX.101	Amended	Aug 1517		V.335	Amended	June 1139		
58	I.101	Amended	Jan 120	VII.159	Amended	Nov 2155		
	I.2501-2517	Amended	Oct 1957	VII.185	Adopted	Aug 1520		
	I.2519-2529	Adopted	Oct 1957	VII.201	Amended	Aug 1519		
	III.Chapters 1-13	Amended	Mar 499	VII.203	Repealed	Aug 1519		
	III.101,103,105	Repealed	Mar 499	VII.335	Amended	Oct 1972		
	III.511,519	Amended	May 961	VII.341	Amended	Feb 360		
	V.1701-1711	Adopted	Oct 1927	VII.343	Amended	Feb 359		
61	I.2903	Amended	Dec 2321	VII.405	Amended	Feb 359		
	III.Chapter 19	Adopted	Dec 2317	VII.407	Adopted	Apr 709		
	V.Chapters 1-35	Amended	Mar 477	VII.409	Adopted	May 964		
				VII.901	Amended	May 962		
67	I.101-107	Repealed	Feb 355	XVII.101	Amended	Sept 1785		
	I.1181	Repealed	Feb 355	XIX.101,103	Amended	July 1324		
	I.2913	Amended	Feb 355					
	I.Chapter 51	Adopted	Feb 355					

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 14-16, 1999, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows:

New Candidates: February 26, 1999

Re-Take Candidates: March 12, 1999

Reciprocity Candidates: May 7, 1999

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to February 26, 1999. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

9901#026

POTPOURRI

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Advisory Commission on Pesticides

Pesticide Restrictions (LAC 7:XXIII.143)

The Louisiana Department of Agriculture and Forestry is hereby giving notice that these permanent rules and regulations were adopted in accordance with the Administrative Procedure Act R.S. 49:950 et seq. and R.S. 3:3203(A). The commissioner of Agriculture and Forestry adopted these rules and regulations as permanent rules which were published in the *Louisiana Register*, Volume 24, page 2076, November 20, 1998.

However, during the publication process the text from a declaration of emergency was inadvertently published with the permanent rules.

The purpose of this notice is to correct any confusion that may result from the inadvertent publication of a declaration of emergency with the publication of the permanent rules.

Any questions pertaining to these rules and regulations may be directed to Bobby Simoneaux at (225) 925-3763.

Bob Odom
Commissioner

9901#025

POTPOURRI

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Boll Weevil Eradication Hearing—1999 Assessment

The Boll Weevil Eradication Commission will hold an adjudicatory hearing beginning at 10:00 a.m., March 10, 1999 at the Louisiana Department of Agriculture and Forestry, Commissioner's Conference Room, located at 5825 Florida Boulevard, Baton Rouge, LA, relative to the setting of the assessments levied upon cotton producers for each acre of cotton planted for the 1999 crop year pursuant to R.S. 3:1613 and LAC 7:XV.321. Said assessment shall not exceed \$35 per acre of cotton planted for 1999 in the Red River Eradication Zone and \$15 per acre of cotton planted for 1999 in the Louisiana Eradication Zone. Calculations made to date indicate that the assessments should not, in actuality, exceed \$10 per acre for the Red River Eradication Zone and \$15 per acre for the Louisiana Eradication Zone.

All interested persons are invited to attend and will be afforded an opportunity to participate in the adjudicatory hearing. Written comments will be accepted if received prior to March 9, 1999, P.O. Box 3118, Baton Rouge, LA 70821-3118.

Dan P. Logan, Jr.
Chairman

9901#070

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Vermilion Parish Coastal Marsh Oil Spill

The Louisiana Oil Spill Coordinator (OSC), as the Lead Administrative Trustee, in consultation and agreement with the state Natural Resource Trustees, the Louisiana Department of Environmental Quality (DEQ), Louisiana Department of Natural Resources (DNR), and the Louisiana Department of Wildlife and Fisheries (WLF) has determined that the impacts of the discharge of crude oil reported on June 21, 1997 warrant conducting a natural resource damage assessment, which will include restoration planning.

On June 21, 1997, Apache Corporation notified the DEQ of an unauthorized discharge of crude oil from a subsurface pipeline in the Vermilion Block 16 pipeline located approximately three miles west of Freshwater City, Vermilion Parish, LA. Approximately six acres of marsh were oiled by the discharge that was burned on July 3, 1997. Original estimates of the discharge based on the surface area of impact

indicated a minimal discharge. However, following repair of the pipeline and further monitoring of the site, it was determined that the release probably resulted from a slow leak that occurred over time. U.S. Coast Guard records indicate that 2000 bbls of oil may have been released at the site.

The area is a predominantly brackish coastal marsh and is characterized by *Spartina alterniflora*, *Eleocharis spp.*, *Scirpus olneyi*, and *Spartina patens*. Water levels in the area impacted by the spill and burn are controlled by the landowner.

Pursuant to 33 U.S.C. §§2702 and 2706(c), the OSC and the Natural Resource Trustees of the State of Louisiana have authority to assess natural resource damages resulting from the incident.

The Trustees have jurisdiction to pursue restoration under 15 C.F.R. §990.41: an incident has occurred, as defined in 15 C.F.R. §990.30; the discharge was not permitted under state, federal, or local law or from a public vessel or from an onshore facility subject to the Trans-Alaska Pipeline Authority Act 43 U.S.C. 1651 et seq.; and natural resources under the trusteeship of the trustees listed above may have been, or may be, injured as a result of the incident.

Response actions have not adequately addressed, or are not expected to address, the injuries resulting from the incident.

The Trustees proceeded to preassessment, pursuant to 15 C.F.R. §990.41(b). Apache Corporation, at the invitation of the trustees, agreed to participate in and to provide funding for the preassessment.

The Trustees, in cooperation with the Apache Corporation, conducted vegetative and sediment sampling on March 31, 1998 and October 7, 1998. Natural resources and/or services injured as a result of the spill and spill response may include vegetation, water quality, sediment in fauna, and other components of the brackish coastal marsh. The marsh provides valuable habitat for wildlife and aquatic fauna.

Potential restoration actions relevant to the expected and observed injuries exist. Restoration options may include both primary restoration (replacement of lost natural resources and their services) and compensatory restoration (replacement of the equivalent of resources and services lost over time between the time of the spill and the time when restoration is judged to be complete). Primary restoration options include planting of impacted areas with coastal marsh vegetation. Compensatory restoration options include marsh management projects and vegetation enhancement projects.

Pursuant to 15 C.F.R. §990.14(d), the Trustees will seek public involvement in restoration planning for this spill through public review of and comment on the documents contained in the administrative record, which is available for review at the Louisiana Oil Spill Coordinator's Office, and on the draft and final restoration plans when they have been prepared.

For more information, please contact the Louisiana Oil Spill Coordinator's Office, 1885 Wooddale Blvd, 12th Floor, Baton Rouge, LA 70806; (225) 922-3230.

The Louisiana Oil Spill Coordinator, as the Lead Administrative Trustee, on behalf of the Natural Resource Trustees of the State of Louisiana: the DEQ, the DNR, and the WLF hereby provides Apache Corporation with this notice of intent to conduct restoration planning and invites their participation with the Natural Resource Trustees in restoration planning.

Roland J. Guidry
Oil Spill Coordinator

9901#046

POTPOURRI

Department of Health and Hospitals Board of Veterinary Medicine

Board Meeting Dates

The Louisiana Board of Veterinary Medicine is scheduled to meet on the following dates in 1999.

Wednesday, February 24, 1999
Wednesday, March 31, 1999
Wednesday, June 16, 1999
Thursday, August 19, 1999
Thursday, October 28, 1999
Thursday, December 2, 1999

These dates are subject to change, so please contact the board office at (225) 342-2176 to verify actual meeting dates.

Charles B. Mann
Executive Director

9901#001

POTPOURRI

Department of Health and Hospitals Board of Veterinary Medicine

Board Nominations

The Board of Veterinary Medicine announces that nominations for the position of Board member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting. Interested persons should submit the names of nominees directly to the LVMA as per R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

Charles B. Mann
Executive Director

9901#002

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

Fee Schedule

Following are the fees charged by the Louisiana Board of Veterinary Medicine:

Annual Active Renewal Fee	\$ 125
Annual Inactive Renewal Fee	\$ 75
Renewal Late Fee	\$ 100
Renewal Late CE Fee	\$ 25
DVM Original License Fee	\$ 100
National Board Examination Fee	\$ 215
Clinical Competency Test Fee	\$ 190
State Board Examination Fee	\$ 125
Annual RVT Renewal Fee	\$ 25
RVT Late Renewal Fee	\$ 10
VTNE Examination Fee	\$ 125
RVT Original Certification Fee	\$ 25
Annual CAET Renewal Fee	\$ 25
CAET Late Renewal Fee	\$ 25
CAET Examination Fee	\$ 75
CAET Original Certification Fee	\$ 50
CAET Temporary Certification Fee	\$ 25

Charles B. Mann
Executive Director

9901#003

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, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well Number	Serial Number
Acadiana Gas Systems, Inc.	Fausse Pointe	SD C RA SUA; Hall Gonsoulin	001	211468

Acadiana Gas Systems, Inc.	Fausse Pointe	SD C RB SUA; Hall Gonsoulin	002	173848
Acadiana Gas Systems, Inc.	Lewisburg	F A DeJean	1-D	160839
Acadiana Gas Systems, Inc.	Lewisburg	Richard	001	158296
Acadiana Gas Systems, Inc.	Fausse Pointe	U SD B RA SUA; Shaw A	001	055172
Acadiana Gas Systems, Inc.	Niblett	Daniel Huval	001	214202
British-American Oil Prod. Co.	Deep Lake	SL 4207	001	105208
Equitable Petroleum Corp.	Monroe	Vernon D Ray WW	001	161548
Equitable Petroleum Corp.	Bayou Pigeon	U SUA;E H Peterman	2D	074254
Equitable Petroleum Corp.	Couba Island	SL 11136	001	195351
Equitable Petroleum Corp.	Couba Island	SL 11136	002	199623
Lyons Petroleum	Bayou Pigeon	Edward H Peterman	001	112170
R.M. Teel Prod., Bastrop Project	Monroe	Crosset T and D Co	002	003139
R. M. Teel Prod., Bastrop Project	Monroe	Freeland-Odom	002	022497

Philip N. Asprodites
Commissioner

9901#030

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