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EMERGENCY RULES

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Forestry Commission

Department of Revenue and Taxation
Tax Commission

Stumpage Values (LAC 7:XXXIX.20101)

The Commissioner of Agriculture and Forestry and the Chairman of the Louisiana Tax Commission are exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) and amend LAC 7:XXXIX.20101 pertaining to stumpage values.

Emergency adoption is necessary in order that the Office of Forestry fulfill the provisions of R.S. 3:4343 to assess current market values to severed forest products and timber for use in severance tax computations for 1993.

This declaration of emergency is effective upon publication and will remain in effect for the maximum of 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 201. Timber Stumpage

§20101. Stumpage Values

The Office of Forestry and Tax Commission, as required by R.S. 3:4343, adopted the following timber stumpage values based on current average stumpage market values to be used for severance tax computation for 1993:

1. Pine Sawtimber \$ 212.03 per M bd. ft.
2. All Hardwood \$ 104.32 per M bd. ft.
3. Pine Pulpwood \$ 26.85 per cord
4. Hardwood Pulpwood \$ 8.27 per cord

Paul D. Frey, State Forester
Office of Forestry

Malcolm B. Price, Chairman
Louisiana Tax Commission

DECLARATION OF EMERGENCY

Department of Economic Development
Racing Commission

Classification of Foreign Substances by Category
(LAC 35:I.1795)

The Racing Commission, at the meeting of December 10,

1992, and pursuant to the authority contained in R.S.49:953(B), adopted the following emergency rule:

Title 35

HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1795. Classification of Foreign Substances by Category

Prohibited drugs and prohibited substances are classified in the appropriate one of five classes.

A. Known and identified prohibited drugs and substances are classified and listed according to their appropriate class as defined in the Association of Racing Commissioners International, Incorporated Drug Testing and Quality Assurance Program's *Uniform Classification Guidelines for Foreign Substances*.

B. Unknown or unidentified drugs or substances which are prohibited but not listed shall be appropriately classified by the state chemist upon discovery or detection. A supplemental listing of the appropriate classification of such discovered or detected drugs shall be maintained at the domicile office and be made available to the public upon request. A prohibited drug or substance remains prohibited regardless of whether it is listed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission LR 19:

Oscar J. Tolmas
Chairman

DECLARATION OF EMERGENCY

Department of Economic Development
Racing Commission

Medication in Two-Year-Olds (LAC 35:I.1722)

The Racing Commission, at the meeting of December 10, 1992, and pursuant to the authority contained in R.S.49:953(B), amended the following emergency rule regarding medication in two-year-old horses, which is consistent with similar rules in other racing jurisdictions.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1722. Medication in Two-Year-Olds

Notwithstanding anything in any rule of racing, medication, except bleeder medication, shall not be prescribed, dispensed or administered to a two-year-old horse to be raced or racing, or when there is racing planned for a two-year-old horse, in the state of Louisiana.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 12:11 (January 1986), amended by the Department of Economic Development, Racing Commission, LR 19:

Oscar J. Tolmas
Chairman

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

Penalty Guidelines (LAC 35:I.1797)

The State Racing Commission, at the meeting of December 10, 1992, and pursuant to the authority contained in R.S.49:953(B), adopted the following emergency rule:

Title 35

HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1797. Penalty Guidelines

A. Upon finding a violation by a permittee of prohibited medication rules, of prohibited substance rules, or of improper or excessive use of permitted medications, the stewards, or the commission, shall consider the classification level as set forth in §1795 and will, in the absence of mitigating or aggravating circumstances, endeavor to impose penalties and disciplinary measures consistent with the recommended guidelines contained herein. Whenever a majority of the stewards find or conclude that there are mitigating or aggravating circumstances, they should so state in their ruling such finding or conclusion, and should impose the penalty which they find is appropriate under the circumstances to the extent of their authority or, if necessary, refer the matter to the commission with specific recommendations for further action.

B. The commended guidelines for a violation of each classification level are as follows:

1. Class I: suspension of license for a period of not less than one year and not more than five years and a fine of \$5,000. The purse shall be redistributed.

2. Class II: suspension of license for a period of not less than six months and not more than one year and a fine of not less than \$1,500 and not more than \$2,500. The purse shall be redistributed.

3. Class III: suspension of license for a period of not less than 60 days and not more than six months and/or a fine of not more than \$1,500. The purse shall be redistributed.

4. Classes IV and V:

a. on a first violation within a 12-month period, a fine of \$200;

b. on a second violation within a 12-month period, a fine of \$500;

c. on a third or subsequent violation within a 12-month period:

- i. suspension of license;
- ii. fine of \$1,500;
- iii. order the purse redistributed; and
- iv. refer the permittee to the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission LR 19:

Oscar J. Tolmas
Chairman

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

Two-Year-Olds (LAC 35:I.1503)

The Racing Commission, at the meeting of December 10, 1992, and pursuant to the authority contained in R.S. 49:953(B), amended the following emergency rule for consistent with similar rules in other racing jurisdictions.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 15. Permitted Medication

§1503. Two-Year-Olds

The only "Permitted Medication" for two-year olds for racing shall be bleeder medication as defined in §1509. The presence of any other "Permitted Medication" or of any drug or substance in the blood or urine specimen of a two-year-old horse, regardless of the level thereof, shall be prima facie evidence of the presence of such medication or drug and a violation of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 2:451 (December 1976), repromulgated LR 4:289 (August 1978), amended LR 6:620 (December 1981), LR 9:547 (August 1983), amended by Department of Economic Development, Racing Commission LR 19:

Oscar J. Tolmas
Chairman

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

Violations of Permitted Medication Rules (LAC 35:I.1511)

The Racing Commission, at the meeting of December 10, 1992, and pursuant to the authority contained in R.S.49:953(B), amended the following emergency rule:

Title 35

HORSE RACING

Part I. General Provisions

Chapter 15. Permitted Medication

§1511. Violations of Permitted Medication Rules

After notice and hearing, any person found to have violated the provisions of the permitted medication rule may be punished by fine, and/or suspension, and/or revocation of his/her license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:174 (May 1980), amended LR 9:548 (August 1983), amended by the Department of Economic Development, Racing Commission LR 16:765 (September 1990), LR 19:

Oscar J. Tolmas
Chairman

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

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

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953B and re-adopted as an emergency rule, an amendment to the Administrative Code, Title 28, Chapter 3, Section 313(E) and deleted the word "Pilot" as stated below:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 3. Rules of Procedure
Section 313. Waivers of Minimum Standards: Procedures**

* * *

E. Programs in Special Education

* * *

This amendment was re-adopted as an emergency rule in order to continue the present emergency rule until it is finalized as a rule. Effective date of this emergency rule is January 25, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary**

Louisiana Health Care Authority Service Agreement

The Louisiana Health Care Authority and the Department of Health and Hospitals, Office of the Secretary, are adopting the following emergency rule in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1).

The purpose of this emergency rule is to assure coverage of the operation of University Hospital (formerly Hotel Dieu Hospital) by the annual DHH/LHCA Service Agreement, required by Act 390 of 1991. The closing effective date of the purchase of Hotel Dieu by the LPFA for LHCA is December 31, 1992, the same day as the effective date of the following rule:

EMERGENCY RULE

The Louisiana Health Care Authority shall comply with the terms of the annual agreement, as published in the *Louisiana Register*, October 20, 1992, on pages 1157-1159, as amended from time to time with respect to each facility it manages and operates. To the extent the Louisiana Health Care Authority commences the management and operation of an additional medical center during the term of the annual agreement, the terms of the annual agreement shall apply and the term "adequate services" shall be considered to include those major

services available as of the effective date of the Louisiana Health Care Authority's commencement of management and operation of said medical center.

William B. Mohon
Chief Executive Officer
Louisiana Health Care Authority

J. Christopher Pilley
Secretary
Department of Health and Hospitals

DECLARATION OF EMERGENCY

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

**Case Management for the
Chronically Mentally Ill**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the following rule in the Medicaid Program which was published in the *Louisiana Register*, Volume 15, Number 6, page 478, on June 20, 1989. In order to comply with recent federal interpretations of policy for case management services, the bureau is no longer requiring an applicant for enrollment as a provider of these services to the chronically mentally ill to be "approved by the Office of Human Services as having a comprehensive and adequate plan for the delivery of services in accordance with Standards for Case Management." This approval has also been referred to as having an affiliative agreement. This portion of the provider enrollment process will be replaced with a notarized letter of assurance from the provider that Medicaid requirements regarding beneficiary eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is being amended as noted below and this change will be incorporated in the provider manual. The cost of this change is not anticipated to exceed \$150. This rule takes effect January 21, 1993.

EMERGENCY RULE

2. Standards for Participation

A. - C. ...

D. sign a notarized letter of assurance that the requirements of Medicaid of Louisiana will be met.

* * *

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule and for providing information on a public hearing. At that time all interested

persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Developmentally Disabled Infants and Toddlers

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the following rule in the Medicaid Program which was published in the *Louisiana Register*, Volume 18, Number 8, page 849, on August 20, 1992. In order to comply with recent federal interpretations of policy for case management services, the bureau will now require a notarized letter of assurance from the provider of case management services for developmentally disabled infants and toddlers that Medicaid requirements regarding beneficiary eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is being amended as noted below and this change will be incorporated in the provider manual. The cost of this change is not anticipated to exceed \$150. This rule takes effect January 21, 1993.

EMERGENCY RULE

II. Specific Provider Responsibilities

1. The provider must sign a notarized letter of assurance that the requirements of Medicaid of Louisiana will be met.

* * *

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule and for providing information on a public hearing. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested persons.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Disproportionate Share Adjustment Payment Methodologies

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

Medicaid currently reimburses for inpatient care in either a free-standing psychiatric hospital or an acute care general hospital with a methodology which includes an adjustment for hospitals serving a disproportionate share of low-income patients. Previously there has been no limit on the amounts of disproportionate share adjustment payments, but as a result of Public Law 102-234, a national and statewide cap has been placed on disproportionate share adjustment payments beginning October 1, 1992. Louisiana is already over the base state allotment for disproportionate share payments of 12 percent of its total Medicaid expenditures projected for federal fiscal year (FFY) 1993, and is therefor capped at the amount of disproportionate share expenditures in FFY 1992. In federal regulations promulgated November 24, 1992 (FR Vol. 57, No. 227, pages 55118-55265), the national cap of 12 percent is projected to also be exceeded, resulting in reductions to each state's allotment proportional to the percentage of each state's DSH base allotment to the total of all state DSH base allotments multiplied by the amount that all state DSH base allotments exceed the aggregate national 12 percent DSH spending limit. As Louisiana is a high DSH state and already projects disproportionate share payments in FFY 93 in excess of its allotment, a change in the methodology for determining disproportionate share adjustment payments is being implemented to ensure that DSH expenditures remain within the cap imposed by P. L. 102-234 and the HCFA regulations promulgated to implement this law. Based on current projections for DSH payments, it is projected that the DSH payments shall be reduced by \$250,000,000 as a result of the implementation of this rule change regarding the methodology for determining disproportionate share adjustment payments for inpatient hospital services (acute and psychiatric). This action is necessary to reduce the projected DSH payments to a level that will remain under the cap. This emergency rule will ensure that other services for health care to the needy of the state would remain available as otherwise reductions in these services may result if the cap is exceeded and the state must bear the full burden of DSH payments in excess of the cap.

EMERGENCY RULE

Effective for dates of service January 1, 1993, the Department of Health and Hospitals, Bureau of Health Services Financing shall amend the methodology for calculating the amount of disproportionate share payments for inpatient hospital services to differentiate by type of hospital (teaching and non-teaching) for hospitals employing the low-income utilization methodology and to separately calculate the disproportionate share adjustment

for distinct part psychiatric units. Below are the revised methodologies as modified in the State Plan: Attachment 4.19A, Item 1, D. 2., Payment Adjustments for Disproportionate Share Hospitals.

Disproportionate Share Teaching Hospitals

The higher of the below-specified payment adjustment factors shall be applied to the cost limits (per discharge and carve-out per diem) to determine allowable inpatient costs for purpose of payment calculation; and then to the total allowable Medicaid inpatient costs for teaching hospitals qualifying as disproportionate share providers (DSH) as specified above in d.1. (a-d) for services provided on or after January 1, 1993 and in accordance with Section 1923 (c)(1-2) of the Act:

a. *Medicaid Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, in excess of the mean plus one standard deviation; or

b. *Low-Income Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, of the low income utilization rate defined above in D.1.d., in excess of twenty-five percent times a multiplier up to three, as determined by the Director of the Bureau of Health Services Financing; or

c. *Medicare DSH Rate*—that percentage determined by the Medicare fiscal intermediary as a qualifying provider's disproportionate share adjustment factor for the purposes of Medicare reimbursement in accordance with rules established under Section 1886(d)(5)(F)(iv) and Section 1923(c)(1) of the Social Security Act.

Disproportionate Share Non-Teaching Hospitals

The higher of the below-specified payment adjustment factors shall be applied to the cost limits (per discharge and carve-out per diem) to determine allowable inpatient costs for purpose of payment calculation; and then to the total allowable Medicaid inpatient costs for non-teaching hospitals qualifying as disproportionate share providers (DSH) as specified above in d.1. (a-d) for services provided on or after January 1, 1993 and in accordance with Section 1923 (c)(1-2) of the Act:

a. *Medicaid Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, in excess of the mean plus one standard deviation; or

b. *Low-Income Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, of the low income utilization rate defined above in D.1.d., in excess of twenty-five percent times a multiplier up to three, as determined by the Director of the Bureau of Health Services Financing; or

c. *Medicare DSH Rate*—that percentage determined by the Medicare fiscal intermediary as a qualifying provider's disproportionate share adjustment factor for the purposes of Medicare reimbursement in accordance with rules established under Section 1886(d)(5)(F)(iv) and Section 1923(c)(1) of the Social Security Act.

Distinct Part Psychiatric Units

Payment adjustment for distinct part psychiatric units shall be calculated using the unit's data only; however, qualification for disproportionate share adjustment remains calculated based on the entire hospital's utilization and revenue data (acute units and distinct part psychiatric units). The higher of the below-specified payment adjustment factors shall be applied to

the prospective rate to determine the total disproportionate share payment which shall be reflected in the adjusted per diem rate which is not to exceed \$750 per day for those distinct part psychiatric units in hospitals qualifying as disproportionate share providers (DSH) as specified above in d.1. (a-d) for services provided on or after January 1, 1993 and in accordance with Section 1923 (c)(1-2) of the Act:

a. *Medicaid Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, in excess of the mean plus one standard deviation; or

b. *Low-Income Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, of the low income utilization rate defined above in D.1.d., in excess of twenty-five percent times a multiplier up to three, as determined by the Director of the Bureau of Health Services Financing; or

c. *Medicare DSH Rate*—that percentage determined by the Medicare fiscal intermediary as a qualifying provider's disproportionate share adjustment factor for the purposes of Medicare reimbursement in accordance with rules established under Section 1886(d)(5)(F)(iv) and Section 1923(c)(1) of the Social Security Act.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. Copies of this rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Facility Need Review Utilization Report

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following emergency rule in accordance with the Administrative Procedure Act, R.S.49:953(B)(1). There is no cost associated with the implementation of this emergency rule. This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

The department has begun gathering occupancy data from Nursing Facilities in accounting for provider fees authorized under R.S. 46:2601-2605. The Facility Need Review conducted by the department also gathers facility occupancy data, but the

reporting periods differ. In order to avoid duplication of effort by the department and additional reporting by facilities, the month the Nursing Facility Utilization Report (LTC-2) is issued by the department is being changed to the fourth month following the end of each calendar quarter.

EMERGENCY RULE

The last sentence in §12502 B.6.b.(1), page 10 of the *Policies and Procedures for Facility Need Review* shall read: "The LTC-2 is issued by the department in the fourth month following the end of each calendar quarter."

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Case Management for High-Risk Pregnant Women

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the following rule in the Medicaid Program which was published in the *Louisiana Register*, Volume 15, Number 6, page 480, June 20, 1989. In order to comply with recent federal interpretations of policy for case management services, the bureau is no longer requiring an applicant for enrollment as a provider of these services to high risk pregnant women to be "certified by the Office of Public Health as having adequate programming and administration to provide the service effectively and efficiently." This approval has also been referred to as having an affiliative agreement. This portion of the provider enrollment process will be replaced with a notarized letter of assurance from the provider that Medicaid requirements regarding beneficiary eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is being amended as noted below and this change will be incorporated in the provider manual. The cost of this change is not anticipated to exceed \$150. This rule takes effect January 21, 1993, and shall remain in effect for the maximum of 120 days.

EMERGENCY RULE

2. Standards for Participation

A. - C. ...

D. sign a notarized letter of assurance that the requirements of Medicaid of Louisiana will be met.

...

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule and for providing information on a public hearing. At that time all interested

persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Hospital Services Reimbursement Methodology

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

Medicaid currently reimburses for inpatient care in either a free-standing psychiatric hospital or an acute care general hospital with a methodology which includes an adjustment for hospitals serving a disproportionate share of low-income patients as well as an additional disproportionate share adjustment which utilizes different qualifying criteria and payment adjustment methodology. Previously there has been no limit on the amounts of disproportionate share adjustment payments, but as a result of Public Law 102-234, a national and statewide cap has been placed on disproportionate share adjustment payments beginning October 1, 1992. Louisiana is already over the base state allotment for disproportionate share payments of 12 percent of its total Medicaid expenditures projected for federal fiscal year (FFY) 1993, and is therefore capped at the amount of disproportionate share expenditures in FFY 1992. In federal regulations promulgated November 24, 1992 (FR Vol. 57, No. 227, pages 55118-55265), the national cap of 12 percent is projected to also be exceeded, resulting in reductions to each state's allotment proportional to the percentage of each state's DSH base allotment to the total of all state DSH base allotments multiplied by the amount that all state DSH base allotments exceed the aggregate national 12 percent DSH spending limit. As Louisiana is a high DSH state and already projects disproportionate share payments in FFY 93 in excess of its allotment, a change in the methodology for determining disproportionate share adjustment payments is being implemented to ensure that DSH expenditures remain within the cap imposed by P. L. 102-234 and the HCFA regulations promulgated to implement this law.

Based on current projections for DSH payments, it is projected that the DSH payments shall be reduced by up to \$185,000,000 as a result of the implementation of this rule change which along with other rule changes regarding the methodology for determining disproportionate share adjustment payments for inpatient hospital services (acute and psychiatric)

are projected to reduce disproportionate share expenditures by \$250,000,000. This action is necessary to reduce the projected DSH payments to a level that will remain under the cap. This emergency rule will ensure that other services for health care to the needy of the state would remain available as otherwise reductions in these services may result if the cap is exceeded and the state must bear the full burden of DSH payments in excess of the cap.

EMERGENCY RULE

Effective January 1, 1993, the Department of Health and Hospitals, Bureau of Health Services Financing shall amend the methodology for calculating the amount of disproportionate share payments for inpatient hospital services to provide for an additional disproportionate share payment for hospitals which utilizes payment based on the number of indigent care inpatient days (exclusive of Medicaid inpatient days) in a pool of all such days for all qualifying disproportionate share hospitals. A prospective payment via a lump sum payment will be made to each disproportionate share hospital equal to the product of the ratio of each hospital's total indigent care days in the prior state fiscal year, divided by the total indigent inpatient days in the same period by all disproportionate share hospitals, multiplied by an amount of funds to be determined by the director of the Bureau of Health Services Financing, but not to exceed the total cap on disproportionate share expenditures established under P. L. 102-234. All hospitals indigent care (free care) plans must be submitted and reviewed by the Bureau of Health Services Financing and may not exceed the income eligibility criteria established under Hill-Burton criteria of 200 percent of the federal poverty level. This additional disproportionate share payment may be payable to all qualifying disproportionate share hospitals (acute care general, free-standing psychiatric hospitals, and distinct part psychiatric units) in addition to other disproportionate share payments.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. Copies of this rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Hospital-Based Neurological Rehabilitation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following emergency rule providing for the reimbursement of hospital Neurological Rehabilitation Care services in the Medicaid Program. This emergency rule is being published in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) and shall be in effect for the maximum period allowed.

Currently, hospitals are limited to the discharge rate and unable to cover their costs for providing neurological rehabilitation treatment services. This is due to the lack of an established reimbursement mechanism which covers the intensive services, specialized equipment and the program of rehabilitative care required for these patients. In-state hospitals capable of providing such services are reluctant to accept them due to the adverse effect on their overall reimbursement. Therefore, in order to meet the needs of Louisiana citizens, Medicaid of Louisiana is implementing a new reimbursement methodology to be identified as Intensive Neurological Rehabilitation Care Program. Medicaid of Louisiana has developed the medical criteria for the classification and reimbursement of this patient group who need a program of intense neurological rehabilitation care. It is estimated that this program will cost approximately \$2,430,000 during the first year.

EMERGENCY RULE

Effective January 1, 1993, the Bureau of Health Services Financing shall implement a reimbursement methodology for a Neurological Intensive Rehabilitation Care Program in the hospital setting. This program is developed to meet the needs of Louisiana citizens who are Medicaid eligible and require intense rehabilitation care services for neurological injuries of recent onset. Hospital Neurological Intensive Rehabilitation Care services should extend throughout the post critical care recovery process not to exceed 90 days unless deemed medically necessary by the Department of Health and Hospitals.

The Intensive Neurological Rehabilitation Care Program reimbursement rates shall be prospective interim rates based on actual cost data. A rebasing of these initial rates shall occur after a full year of implementation of this program. This rebasing of the rates shall be based on actual costs as determined by on-site audits and cost reports. Subsequent rate adjustments may be made as warranted by on-site financial audits of the facility's actual costs so that future rates will be in accordance with audit findings and the accuracy of the rate components utilized in the determination process. Annual audits will be required as well as the submittal of additional cost reporting documents as required by the department.

Medicaid of Louisiana has developed the medical criteria which must be met in order for a Title XIX patient to be classified for reimbursement under a hospital Intensive

Neurological Rehabilitation Care Program. The hospital Intensive Neurological Rehabilitation Care services provide intensive, comprehensive, and interdisciplinary services to persons with an injury or illness resulting in residual severe deficits and disability in addition to a need for intensive medical support. The service needs are designed to reduce the patient's rehabilitation and medical needs while restoring the person to an optimal level of physical, cognitive, and behavioral function. The services provide care for patients who present a variety of medical/surgical concerns requiring a highly skilled level of nursing, medical, and/or rehabilitation interventions to maintain medical/functional stability. These patients are essentially too medically complex or demanding for a nursing rehabilitation setting and require the acute hospital setting.

Patients in need of hospital neurological intensive rehabilitation care services shall meet the following requirements:

1. The patient shall have an injury or condition that occurred within 48 hours from the date of admission. Patients served shall have severe loss of central nervous system functions as a result of a neurological injury or condition.

2. The patient shall have been determined, by a physician, to be appropriate for rehabilitation in the hospital setting to recover lost function or appropriate for assessment for determination of functional recovery potential.

3. The patient shall require five hours of rehabilitation therapy services, per day, as tolerable and appropriate, and a minimum of five hours of nursing care per day by licensed nurses. Rehabilitation therapy services will be available and provided, as tolerable and appropriate, at least five days per week. Examples of patients to be considered include, but are not limited to:

- a. traumatic brain injury;
- b. cerebral vascular accidents with severe neurologic;
- c. neoplasms of the central nervous system;
- d. neuro behavioral sequelae to the above.

4. The patient shall have complete neurological/medical/psychosocial assessments completed prior to admission to an Intensive Neurological Rehabilitation Care Program:

- a. history of current condition;
- b. presenting problems and current needs;
- c. preliminary plan of care including services to be rendered;
- d. initial goals and time frames for goal accomplishment.

These assessments shall clearly demonstrate the patients need for this care and expected benefits.

5. The patient shall have an assigned facility case manager to monitor and measure goal attainment and functional improvement. The facility case manager will be responsible for cost containment and appropriate utilization of services. The facility case manager will coordinate discharge planning activities if it has been determined that hospital Intensive Neurological Rehabilitation Care services are no longer required or appropriate.

6. The patient shall demonstrate progress toward the reduction of physical, cognitive, and/or behavioral deficits to maintain eligibility for hospital Intensive Neurological Rehabilitation Care services funding.

The hospital seeking to provide services under this hospital Intensive Neurological Rehabilitation Care Program must meet the following requirements:

1. The hospital shall be accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and by the Commission on Accreditation of Rehabilitation Facilities (CARF).

2. The hospital shall have appropriate rehabilitation services to manage the functional and psychosocial needs of the patients' services and appropriate medical services to evaluate and treat the pathophysiologic process. The staff shall have intensive specialized training and skills in rehabilitation.

3. The hospital shall have formalized policies and procedures to govern the comprehensive skilled and rehabilitation nursing care, related medical and other services provided. An interdisciplinary team approach shall be utilized in patient care. This team shall include, but is not limited to: a physician, a registered nurse (with special training/experience in rehabilitation and brain injury care/treatment), physical therapist, occupational therapist, speech/language therapist, respiratory therapist, psychologist, social worker, recreational therapist, and case manager.

4. The hospital shall have formalized policies and procedures to insure that the interdisciplinary health and rehabilitation needs of every hospital intensive neurological rehabilitation care patient shall be under the supervision of a licensed physiatrist, board certified in physical medicine and rehabilitation.

5. The hospital shall have formalized policies and procedures to insure a licensed physician visits and assess each patient's care frequently and no less than required by law, licensure, certifications and accreditations.

6. The hospital shall have formalized policies and procedures to furnish necessary medical care.

7. The hospital shall provide private rooms for patients demonstrating medical and/or behavioral needs. Dedicated treatment space shall be provided for all treating disciplines including the availability of distraction free individual treatment rooms/areas.

8. The hospital shall provide 24-hour nursing services to meet the medical and behavioral needs with registered nurse coverage 24 hours per day, seven days per week.

9. The hospital shall provide appropriate methods and procedures for dispensing and administering medications and biologicals.

10. The hospital shall have formalized policies and procedures for, and shall provide on a regular basis, ongoing staff education in rehabilitation, respiratory care, specialized medical services and other related clinical and non-clinical issues.

11. The hospital shall provide dietary services to meet the comprehensive nutritional needs of the patients. These services shall be provided by a registered dietician for a minimum of one hour per week.

12. The hospital shall provide patients' families and significant others the opportunity to participate in the coordination and facilitation of service delivery and personal treatment plan.

13. The hospital shall provide initial and ongoing integrated, interdisciplinary assessments to develop treatment plans which should address medical/neurological issues sensorimotor, cognitive, perceptual, and communicative capacity, affect/mood, interpersonal, social skills, behaviors, ADLs, recreation/leisure skills, education/vocational capacities, sexuality, family, legal competency, adjustment to disability, post-discharge services environmental modifications, and all other areas deemed relevant for the person.

14. The hospital shall provide a coordinated, interdisciplinary team which meets in team conference to update the treatment plan for each person at least every seven days and as often as necessary to meet the changing needs of the patient.

15. The hospital shall provide appropriate consultation and services to meet the needs of the patients, including but not limited to audiology, speech, orthotics, prosthetic, or any specialized services.

16. The hospital shall establish protocol for ongoing contact with vocational rehabilitation education, mental health, developmental disabilities, social security, social welfare, head injury advocacy groups and any other relevant public/community agencies.

17. The hospital shall establish protocol for close working relationships with other acute care hospitals capable of caring for persons with neurological trauma to provide for outpatient follow up, in service education and ongoing training of treatment protocols to meet the needs of the traumatic brain injury patients.

18. The hospital shall document the patient's progress in meeting goals in detail. If appropriate progress is not made or if goals are attained, the patient shall not be eligible for this program and the case manager shall coordinate discharge plans.

19. The hospital shall have policies and procedures to prevent admitting a patient to this program whose needs the hospital cannot meet.

20. The hospital shall not admit a patient to this program whose needs can be met at a lesser level of care.

21. The hospital shall make certain all professional and non-professional staff requiring licenses are dually licensed by the appropriate licensing authority.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this emergency rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule and providing information about a public hearing on this matter. Copies of this emergency rule and all other Medicaid rules and regulations are available at Parish Medicaid Offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Medical Care Services to ICF/MR Facility Residents

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following emergency rule providing for the reimbursement of extraordinary medical care services for Title XIX long term care ICF/MR patients under the Medicaid Program. This emergency rule is being published in accordance with the Administrative Procedures Act, R. S. 49:953(B)(1) and shall be in effect for the maximum period allowed.

Currently in the Medicaid Program, reimbursement for ICF/MR facility services for persons with extraordinary medical care needs is available through state funding only. These services which are covered by Title XIX and required in the patients' plans of care have always been reimbursed with state funds. Therefore, these costs have always been excluded in determining the ICF/MR Medicaid rates because of the state funding. In order to meet the needs of this patient group, Medicaid of Louisiana is adopting a mechanism to fund these type costs with both federal and state dollars.

EMERGENCY RULE

Effective January 1, 1993, the Bureau of Health Services Financing hereby implements a reimbursement for extraordinary care services provided to mentally retarded persons in ICF/MR facilities under the Medicaid Program. Calculation of an individual prospective flat rate amount for each extraordinary medical care beneficiary shall be determined based on actual costs of providing these services for each individual. Costs for extraordinary care shall be segregated from other long term care costs by means of a separate cost report. No duplication of cost shall be allowed and allowable cost shall be in accordance with Medicare principles of determining allowable cost found in the Provider Reimbursement Manual (HIM-15). The annual fiscal impact in funding eligible Title XIX services with federal and state funds instead of all state funds should result in approximately \$3,088,853 in additional federal funds thereby decreasing the state funds to approximately \$1,085,273 from \$4,174,126.

Medicaid reimbursement of the extraordinary medical care cost shall be made only under the following condition:

The department has reviewed and approved each patient's plan of care and determined that the extraordinary medical services included are based upon medical necessity and are not provided in the current per diem rate.

Implementation of this emergency rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this emergency rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to

inquires regarding this emergency rule and providing information about a public hearing on this matter. Copies of this emergency rule and all other Medicaid rules and regulations are available at Parish Medicaid Offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Enrollment of Inpatient Psychiatric Hospital Beds

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program through the emergency provision of the Administrative Procedure Act, R.S. 49:953 B. This emergency rule is effective December 18, 1992 and remains in effect for the maximum of 120 days.

Medicaid currently reimburses for psychiatric inpatient care in either a free-standing psychiatric hospital or in a psychiatric unit of an acute-care, general hospital. There has been a proliferation of psychiatric beds in both free-standing and acute-care, general hospitals to the extent that there is now a sufficient number of psychiatric beds available for care of the Medicaid population. Since 1989 when Medicaid instituted a prospective reimbursement methodology for psychiatric inpatient services, there has been an extraordinary increase in psychiatric beds. For example, during 1989 approximately 471 distinct part psychiatric beds enrolled in Medicaid. Currently the number of such providers enrolled in Medicaid is approximately 1045. Continued proliferation of psychiatric inpatient beds will result in increased expenditures when the Medical Assistance Program is already facing cuts to avoid a budget deficit. Federal regulations permit Medicaid to refuse to enroll a provider for good cause, including a surfeit of beds. Based on prior growth in psychiatric beds, it is projected that the budget deficit may be reduced by 74 million dollars as a result of suspension of further enrollment of psychiatric beds unless a need for same may be determined. This action is necessary to avoid or reduce the projected deficit in the Medical Assistance Program. This emergency rule will ensure that other services for health care to the needy of the state would remain available and would not impair access to these services by the Medicaid population as sufficient providers are already enrolled.

EMERGENCY RULE

Effective December 18, 1992, DHH's Bureau of Health Services Financing shall suspend enrollment as Medicaid providers of further inpatient psychiatric hospital beds regardless of whether the beds are in a free-standing psychiatric hospital or a unit of an acute-care, general hospital. This suspension applies to the addition of new psychiatric beds as well as the conversion of acute-care, general beds to psychiatric beds.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Box 91030, Baton Rouge, LA 70821-9030. Copies of this rule and all other Medicaid rules and regulations are available for review in the Medicaid parish offices.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

KIDMED Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is adopting the following emergency rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:953(B).

The bureau proposes to implement additional timely filing limits on KIDMED medical, vision and hearing screening claims to insure adequate tracking of screening, diagnosis and treatment services in accordance with federal Early Periodic, Screening, Diagnosis and Treatment (EPSDT) regulations. There are no costs associated with the implementation of this emergency rule. This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

Effective January 21, 1993, Medicaid of Louisiana shall require that KIDMED medical, vision and/or hearing claims be received by Louisiana KIDMED within 60 calendar days of the date of service in order to be processed and the provider be reimbursed by Medicaid of Louisiana.

Implementation of this rule is dependent upon approval by the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this emergency rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule and for providing information on any public hearing on this matter. At the public hearing all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Long Term Care Services

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

Under §1905 of the Social Security Act states may cover Long Term Care Services for the medically needy whose incomes are reduced below federal limits as a result of incurred medical expenses. Under this statutory option, Medicaid of Louisiana is expanding covered services to include vendor payment to nursing facilities for aged, blind, and disabled individuals whose incomes are above the federal CAP of \$1,266 per month but below the cost of care. In addition, this coverage is being made available to members of families with children whose incomes and/or resources exceed categorical program maximum limitations. This option will primarily benefit patients of nursing facilities whose incomes are insufficient to cover the cost of care. It is projected that 300-500 nursing facility patients, currently receiving limited state funded insurance coverage will benefit from this coverage expansion. While Medicaid expenditures will increase by approximately \$5 million per year, total state expenditures will decline from savings in the cost of providing 100 percent state funded reimbursement of incurred medical expenditures. This emergency rule is being adopted to enhance federal funding through refinancing of state expenditures. This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

Effective January 15, 1993, Medicaid of Louisiana shall include Long Term Care Services provided by enrolled nursing facilities under the Medically Needy Program.

Implementation of this rule is dependent upon approval by the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this emergency rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule and for providing information on any public hearing to be held on this matter. When the public hearing is held all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program. This rule was previously published in the *Louisiana Register*, Vol. 18, No. 9, page 937, September 20, 1992.

Mental Health Rehabilitation Services were adopted as an optional part of the covered services provided by Medicaid of Louisiana effective July 1, 1989. Recent interpretations by the Health Care Financing Administration regarding the definition of these services requires that changes be made to the program in order to comply with federal regulations. This emergency rule is effective for the maximum period allowed under R.S. 49:954(B) et seq. It is estimated that the cost of these programmatic changes will be \$6 million dollars.

EMERGENCY RULE

Effective January 6, 1993 the Bureau of Health Services Financing shall define as Medicaid services, the following mental health rehabilitation services for mentally ill adults or emotionally disturbed children (as defined by Division of Mental Health) which are necessary to reduce the disability resulting from mental illness and to restore the individual to his/her best possible functioning level in the community:

I. Mental Health Rehabilitation Management

Mental health rehabilitation services must be provided according to a mental health rehabilitation plan developed by a licensed professional who is a QMHP, in conjunction with a physician. The attending physician must document that the recipient meets the definition of disability required to receive this service, and must order the rehabilitation services on a mental health rehabilitation plan. A mental health rehabilitation management agency coordinates and manages rehabilitation plans presented by referred recipients, and develops initial plans for those clients referred without one. Mental health rehabilitation management providers follow-up on services provided to determine their effectiveness, and assist the attending physician who must review the progress and recertify the recipient for services at least quarterly. Management providers are responsible for referral to other providers, such as case management for the chronically mentally ill, if the recipient has identified needs which are not treatable by mental health rehabilitation services. Authorized services must be medically necessary and reasonable in amount and the management provider is responsible for the judicious scheduling of them. Mental health rehabilitation management services may be provided anywhere in the community. The only excluded settings are mental institutions (including distinct part psychiatric units). Services can be delivered in any setting that is convenient for both the client and staff member, that affords an

adequate therapeutic environment, and that protects the client's rights to privacy and confidentiality. Mental health rehabilitation services are to be provided within the limits set for each procedure (including some which may be provided by more than one provider) and according to the individual limits established in the rehabilitation plan developed by the QMHP according to physician's orders. Services shall be billed per occurrence and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

II. Mental Health Rehabilitation Counseling and Therapy

Counseling and therapy involves a series of face-to-face structured, time limited, and verbal interactions between the counselor or therapist and person(s) receiving services. The purpose is to attain goals and objectives specified in the mental health rehabilitation plan. All counseling and therapy is provided within the scope allowed by the license of the respective mental health professions. This component of mental health rehabilitation services also includes treatment integration which is performed by para-professionals under the direction of a QMHP. Services can be delivered in any setting that is convenient for both the client and staff member, that affords an adequate therapeutic environment, and that protects the client's rights to privacy and confidentiality. The only excluded settings are hospitals. Mental health rehabilitation services are to be provided within the limits set for each procedure (including some which may be provided by more than one provider) and according to the individual limits established in the rehabilitation plan developed by the QMHP according to physician's orders. Services shall be billed per unit of time (except for consultations which are reimbursed on a per occurrence basis) and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

III. Mental Health Rehabilitation Psychosocial Skills Training

These paraprofessional services are provided by appropriately trained and supervised staff to help integrate therapeutic principles into the daily activities of the mental health rehabilitation recipient. The purpose is to achieve the restoration, reinforcement and enhancement of the skills and/or knowledge necessary for the person to achieve the maximum reduction of psychiatric symptoms, to increase the level of his/her age appropriate and/or independent functioning, and to successfully assimilate into the community. Mental health rehabilitation services are to be provided within the limits set for each procedure (including some which may be provided by more than one provider) and according to the individual limits established in the rehabilitation plan developed by the QMHP according to physician's orders. These services may be provided in a number of community settings, only hospital settings are excluded. Services shall be billed per unit of time (except for consultations which are reimbursed on a per occurrence basis) and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

IV. Medication Services

These professional rehabilitation support services are provided to assess or monitor a person's status in relation to treatment

with medication, to instruct the client, family, significant others or caregivers of the expected effects of therapeutic doses of medications or to administer prescribed medication when ordered by the supervising physician as part of a mental health rehabilitation plan. Medication administration alone does not qualify as a mental health rehabilitation service. It may be included in a rehabilitation plan only when it is necessary to enable a recipient to make productive use of other mental health rehabilitation services.

Mental health medication management services may be provided anywhere in the community. The only excluded settings are hospitals and nursing facilities. Services can be delivered in any setting that is convenient for both the client and staff member, that affords an adequate therapeutic environment, and that protects the client's rights to privacy and confidentiality. Mental health rehabilitation services are to be provided within the limits set for each procedure and according to the individual limits established in the rehabilitation plan developed by the QMHP according to physician's orders. Services shall be billed per occurrence and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

V. Mental Health Rehabilitation Crisis Services

These professional rehabilitation services are to provide immediate emergency intervention with the client, family, legal guardian, and/or significant others to ameliorate a client's maladaptive emotional/behavioral reaction. Service is designed to resolve the crisis and develop symptomatic relief, increase knowledge of where to turn for help at a time of further difficulty, and facilitate return to pre-crisis routine functioning.

Crisis services may be provided anywhere in the community. The only excluded settings are hospitals. Services can be delivered in any setting that is convenient for both the client and staff member, that affords an adequate therapeutic environment, and that protects the client's rights to privacy and confidentiality. Mental health rehabilitation services are to be provided within the limits set for each procedure. Crisis services are not included in the mental health rehabilitation plan, however, the use of physical restraint and medication management must be authorized in advance by a physician, and all crisis services must be reported to the recipient's rehabilitation management provider for documentation in the recipient's record within 24 hours of being provided. Services shall be billed per unit of time and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

Standards for Participation

The provider of rehabilitation services for the mentally ill adult or the emotionally disturbed child (as defined by Division of Mental Health) must:

A. enter into a provider agreement with the Bureau of Health Services Financing, and abide by the provisions of the Provider Agreement and other applicable state and federal regulations related to enrollment as a Medicaid provider;

B. must be certified as a Comprehensive Community Mental Health Services Provider by the Division of Mental Health; or be licensed in the appropriate category to provide the services

by the Division of Licensing and Quality Assurance of the Division of Social Services;

C. ensure that all rehabilitative services are provided by or under the supervision of a Qualified Mental Health Professional (QMHP) as defined by the Division of Mental Health as follows:

1. a physician who is duly licensed to practice medicine in the state of Louisiana and has completed an accredited training program in psychiatry; or

2. a psychologist who is licensed as a practicing psychologist under the provisions of state law; or

3. a social worker who holds a master's degree in social work from an accredited school of social work and is a board certified social worker under the provisions of R.S. 37:2701-2718; or

4. a nurse who is licensed to act as a registered nurse in the state of Louisiana by the Board of Nursing and:

a. is a graduate of an accredited master's level program in psychiatric mental health nursing with two years experience; or

b. has a master's degree with two years of supervised experience in the delivery of mental health services; or

c. has four years of experience in the delivery of mental health services; or

5. a licensed professional counselor who is licensed as such under the provision of state law and has two years experience in the delivery of mental health services; or

6. an individual with a master's degree in a human services field or education and two years of supervised experience in the delivery of mental health services; or

7. an individual with a baccalaureate degree in a human services field or education and four years of supervised experience in the delivery of mental health services.

D. ensure that services are provided in accordance with a mental health rehabilitation plan approved by a licensed physician and a qualified mental health professional;

E. ensure that sufficient records to document the rehabilitative services being provided to the mentally ill adult or emotionally disturbed child under this provision are maintained in accordance with state and federal regulations;

F. comply with state and federal regulations regarding the completion and submittal of cost reports and audit of same;

G. comply with state and federal regulations regarding subcontracts.

Reimbursement

Reimbursement for rehabilitative services to mentally ill adults or emotionally disturbed children shall be in accordance with a negotiated rate per unit of time or a fee for service established by the Bureau of Health Services Financing based on prevailing rates and the cost of providing the service. All services are reimbursable only when provided in accordance with a mental health rehabilitation plan approved by a licensed physician and a qualified mental health professional, with the exception of crisis care services which may be recommended by the qualified mental health professional or physician on duty during the crisis.

Implementation of this emergency rule is dependent upon approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this proposed rule and the current policy will apply. Copies of this rule and all other Medicaid rules and

regulations are available at parish Medicaid offices for review by interested parties.

Interested parties may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries about this emergency rule and providing information about any public hearing on this matter. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

**Case Management for the Mentally
Retarded/Developmentally Disabled**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the following rule in the Medicaid Program which was published in the *Louisiana Register*, Volume 16, Number 4, page 312, on April 20, 1990. In order to comply with recent federal interpretations of policy for case management services, the bureau is no longer requiring an applicant for enrollment as a provider of these services to the mentally retarded/developmentally disabled to be "certified by the Office of Mental Retardation/Developmental Disabilities as having adequate programming and administration to provide the service effectively and efficiently." This certification has also been referred to as having an affiliative agreement. This portion of the provider enrollment process will be replaced with a notarized letter of assurance from the provider that Medicaid requirements regarding beneficiary eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is being amended as noted below and this change will be incorporated in the provider manual. The cost of this change is not anticipated to exceed \$150. This rule takes effect January 21, 1993.

EMERGENCY RULE

2. Standards for Participation

A. - B. ...

C. sign a notarized letter of assurance that the requirements of Medicaid of Louisiana will be met.

...

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule and for providing

information on a public hearing. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested persons.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Non-Emergency Medical Transportation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing (hereinafter referred to as the bureau), is adopting the following emergency rule in the Medicaid Program in accordance with the Administrative Procedure Act R.S.49:953(B).

Changes in the transportation program are being implemented in an effort to assure greater safety and easier access to covered medical services and more efficient utilization of non-emergency medical transportation for our beneficiary population. It is projected that these changes will result in an approximate overall cost savings to Medicaid of Louisiana of \$3,522,505 for the remainder of fiscal year 1992-93 and \$19,889,943 in fiscal year 1993-94.

The changes in this rule are intended to be in addition to and not instead of regulations currently in place for this program.

This emergency rule is effective for maximum period allowed under R.S.49:954(B) et seq.

EMERGENCY RULE

Effective January 21, 1993, the following additional regulations will be implemented in the non-emergency medical transportation program.

A. Enrollment Requirements

1. A \$5000 performance bond, letter of credit or cashier's check payable to the Bureau of Health Services Financing is required;

2. A provider must wait 90 calendar days from the date his enrollment process is otherwise complete before starting to do business as a Title XIX provider of transportation services;

3. During the 90-day period a provider must publish a notice of intent to do business in the newspaper which is circulated in his geographic area (said notice to be formatted by the bureau);

4. At the time of enrollment the provider must stipulate as to whether each vehicle will be used for service to ambulatory or non-ambulatory beneficiaries;

5. Each vehicle is subject to enrollment and annual inspection by the bureau. An inspection fee as determined by the bureau will be charged;

6. Each vehicle must display a decal issued by the bureau; decals will be issued for each approved vehicle upon completion

of inspection beginning January 21, 1993. All currently enrolled providers of Title XIX transportation services must have each vehicle used in the transportation of beneficiaries inspected and decal no later than April 20, 1993;

7. All enrolled vehicles must have a painted sign in five-inch high letters displaying the name of the enrolled provider and his telephone number;

8. Identification must be uniform on all provider enrollment documents, vehicle registration, inspection certificate, business logo and any other items belonging to the provider;

9. Each provider of Title XIX transportation services must be covered by general liability insurance on the business entity with a minimum coverage of \$300,000 combined single limit of liability;

10. Each provider must submit a notarized certificate of insurance on each vehicle;

11. All vehicle drivers must have a valid Class D (Chauffeur) license;

12. All drivers must be 25 years of age or older and proof of this must be documented in driver's personnel file;

13. All drivers must have completed a defensive driving course accredited by The National Safety Council and proof of this must be documented in driver's personnel file;

14. A participating provider must own or lease all vehicles and provide proof that vehicle registration is in the name of the company. If a vehicle is under lease the period of the lease must run concurrently with the inspection period;

15. Enrolled vehicles are to be used for business purposes only except in emergency situations. If an emergency necessitates the use of a vehicle for purposes other than business, the nature of the emergency and the mileage involved must be documented on the vehicle log;

16. A provider must give the geographic location of the main office and/or substation of the business, and the geographic location of where vehicles are garaged overnight; and

17. A provider must limit his service area to the geographic boundaries established by the bureau. Any exception to this restriction must be approved by the bureau.

B. On-going Requirements

1. All vehicles are subject to annual inspection and must meet all requirements of the transportation program (except 90-day waiting period and the publication requirement);

2. All driver changes must be reported to the bureau within five working days;

3. A provider must notify the bureau of any change in vehicle(s) and comply with all enrollment requirements prior to placing a vehicle in service;

4. Any provider whose vehicle is involved in an accident must give pertinent information on the insurance coverage of the vehicle to the other person(s) involved in the accident and the investigating authority;

5. All accidents must be reported to the bureau within 72 hours;

6. A separate log of total use and mileage must be maintained on each vehicle;

7. Each vehicle is to be used for business purposes only

except in an emergency and documentation must be made as to the nature of the emergency and the mileage involved;

8. Any change in geographic location of the main office or substation, or in the geographic location of where the vehicles are garaged overnight must be reported to the bureau prior to the change;

9. A provider must report the reason for the termination of any driver within five working days of the date of the termination; and

10. A provider must not offer any type of inducement or incentive to a Title XIX beneficiary in order to solicit that beneficiary for transportation services or to secure that beneficiary's transportation "business" (i.e. handbill distribution is prohibited, verbal solicitation of clients at medical facilities is prohibited, etc.). To do so will result in sanctions against the provider of service.

C. Sanctions

1. A transportation provider or company who is the subject of multiple valid complaints from recipients or medical providers is subject to sanction (\$100 for first occurrence, \$500 for second occurrence and \$1000 for third occurrence);

2. Failure to maintain a log of total use and mileage is subject to sanction at \$1000 per day per vehicle;

3. Vehicle in service without a decal is subject to sanction at \$1000 per day;

4. Driver not covered by program is subject to sanction at \$1000 per day;

5. Lack of required insurance is subject to sanction at \$1000 per day per vehicle;

6. Failure to timely report termination of a driver is subject to sanction of \$100 per day;

7. Failure to timely report accidents is subject to sanction at \$100 per day;

8. Failure to properly maintain vehicle is subject to sanction at \$100 for first occurrence, \$500 and surrender of decal for second occurrence and \$1000 and surrender of decal for third occurrence;

9. A provider is subject to partial or total hold of vendor payment while under review if suspected of improper billing practices; and

10. A provider who offers inducements or incentives in an attempt to capture business is subject to sanction which may include but not be limited to suspension and/or termination from the program.

D. Suspensions/Terminations

Effective July 1, 1993, providers may be subject to immediate suspension or termination if a provider audit shows there are substantial discrepancies in billing practices.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule and providing information concerning the date of the public hearing on this

matter. All interested persons will be afforded an opportunity to submit data, views, or arguments orally or in writing at the public hearing. Copies of this emergency rule and all other Medicaid regulations are available for review at parish Medicaid offices.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Case Management for Persons
Disabled by HIV

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the following rule in the Medicaid Program which was published in the *Louisiana Register*, Volume 15, Number 6, page 479, on June 20, 1989. In order to comply with recent federal interpretations of policy for case management services, the bureau will now require a notarized letter of assurance from the provider of case management services to persons disabled by HIV that Medicaid requirements regarding beneficiary eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is being amended as noted below and this change will be incorporated in the provider manual. The cost of this change is not anticipated to exceed \$150. This rule takes effect January 21, 1993.

EMERGENCY RULE

* * *

2. Standards for Participation

A. - B. ...

C. sign a notarized letter of assurance that the requirements of Medicaid of Louisiana will be met.

...

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule and for providing information on a public hearing. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested persons.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Recalculation of Per Diem Rate

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

Medicaid currently reimburses for inpatient psychiatric care in either a free-standing psychiatric hospital or an acute care general hospital's psychiatric unit. These providers are reimbursed based on a prospective statewide per diem based on 1987 audited data. Medicaid is currently developing a prospective reimbursement methodology for acute care services utilizing 1991 cost report data and is proposing to rebase the prospective statewide per diem for psychiatric inpatient services utilizing 1991 cost data also. Coincident with this rebasing of the per diem, Medicaid is mandating the enrollment of psychiatric units (including chemical dependency units) as distinct part psychiatric units to ensure that these services are all reimbursed under the same methodology. Previously Medicaid has not mandated separate enrollment of such units and a few providers have not enrolled as distinct part psychiatric units.

Based on current projections for expenditures for inpatient psychiatric services, it is projected that while the psychiatric per rate increase will result in an annual increase of \$26,722,736 in expenditures for the base rate of psychiatric services, the concomitant decrease in disproportionate share payments which are being capped at the same time as this change, will result in a net decrease in total reimbursement. This action is necessary to ensure adequate and reasonable reimbursement of these types of services and to reduce the projected DSH payments to a level that will remain under the cap on disproportionate share payments imposed by P.L. 102-234. The increase in the base psychiatric per diem along with the cap on the total per diem including disproportionate share adjustment at \$750 per day will ensure that disproportionate share expenditures remain within the cap. This emergency rule will ensure that minimal psychiatric inpatient services to the needy of the state would remain available as otherwise limits on these and other services may result if the cap is exceeded and the state must bear the full burden of DSH payments in excess of the cap.

EMERGENCY RULE

Effective for dates of service January 1, 1993, the Department of Health and Hospitals, Bureau of Health Services Financing shall amend the methodology for reimbursement of inpatient psychiatric services to implement the following:

1) The statewide prospective per diem rate for reimbursement of inpatient psychiatric hospital services in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital shall be recalculated utilizing a base of 1991 allowable costs in accordance with Medicare principles of reimbursement.

2) Require that acute care hospitals with psychiatric units (including chemical dependency units) must separately enroll these units as distinct part psychiatric units. Distinct part psychiatric units must meet the criteria for same under Medicare principles for PPS exempt psychiatric units. Only distinct part psychiatric units and free-standing psychiatric hospitals may be reimbursed for admissions with a psychiatric diagnosis.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. Copies of this rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Reimbursement Cap for Psychiatric Hospital

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

Medicaid currently reimburses for inpatient care in a free-standing psychiatric hospital with a methodology which includes an adjustment for hospitals serving a disproportionate share of low-income patients. Previously there has been no limit on the amounts of disproportionate share adjustment payments, but as a result of Public Law 102-234, a national and statewide cap has been placed on disproportionate share adjustment payments beginning October 1, 1992. Louisiana is already over the base state allotment for disproportionate share payments of 12 percent of its total Medicaid expenditures projected for federal fiscal year (FFY) 1993, and is therefore capped at the amount of disproportionate share expenditures in FFY 1992. In federal regulations promulgated November 24, 1992 (FR Vol. 57, No. 227, pages 55118-55265), the national cap of 12 percent is projected to also be exceeded, resulting in reductions to each state's allotment proportional to the percentage of each state's DSH base allotment to the total of all state DSH base allotments multiplied by the amount that all state DSH base allotments exceed the aggregate national 12 percent DSH spending limit. As Louisiana is a high DSH state and

already projects disproportionate share payments in FFY 93 in excess of its allotment, a change in the methodology for determining disproportionate share adjustment payments is being implemented to ensure that DSH expenditures remain within the cap imposed by P. L. 102-234 and the HCFA regulations promulgated to implement this law.

Based on current projections for DSH payments, it is projected that the DSH payments to free-standing psychiatric hospitals shall be reduced by \$10,341,019 of the total \$250,000,000 in reductions in disproportionate share expenditures (acute and psychiatric hospitals) resulting from this and other rule changes being implemented as a result of the federal changes resulting from P. L. 102-234. This action is necessary to reduce the projected DSH payments to a level that will remain under the cap. This emergency rule will ensure that other services for health care to the needy of the state would remain available as otherwise reductions in these services may result if the cap is exceeded and the state must bear the full burden of DSH payments in excess of the cap.

EMERGENCY RULE

Effective for dates of service January 1, 1993, the Department of Health and Hospitals, Bureau of Health Services Financing shall amend the methodology for calculating the amount of disproportionate share payments for inpatient psychiatric hospital services by free-standing psychiatric hospitals. Below are the revised methodologies as modified in the State Plan: Attachment 4.19A, Items 14 and 16, Payment Adjustments for Disproportionate Share Hospitals.

Free-standing Psychiatric Hospitals

Payment adjustment for free-standing psychiatric hospitals shall be calculated using the data applicable only to the under 21 years and over 65 years which are covered by Medicaid; this includes qualification for disproportionate share adjustment as well as disproportionate share payment adjustment. The higher of the below-specified payment adjustment factors shall be applied to the prospective rate to determine the total disproportionate share payment which shall be reflected in the disproportionate share adjusted per diem rate which is not to exceed \$750 per day for free-standing psychiatric hospitals qualifying as disproportionate share providers (DSH) as specified in Attachment 4.19-A, Item 1, D.1. (a-d) for services provided on or after January 1, 1993 and in accordance with Section 1923 (c)(1-2) of the Act:

a. *Medicaid Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, in excess of the mean plus one standard deviation for all enrolled free-standing psychiatric hospitals; or

b. *Low-Income Utilization Rate*—a minimum payment of \$1 plus a proportional adjustment equal to the percentage, or portion thereof, of the low income utilization rate defined above in Attachment 4.19-A, Item 1, D.1.d., in excess of 25 percent times a multiplier up to three, as determined by the director of the Bureau of Health Services Financing; or

c. *Medicare DSH rate*—that percentage determined by the Medicare fiscal intermediary as a qualifying provider's disproportionate share adjustment factor for the purposes of Medicare reimbursement in accordance with rules established under Section 1886(d)(5)(F)(iv) and Section 1923(c)(1) of the Social Security Act.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. Copies of this rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Reimbursement for Certified Medicaid Enrollment Centers

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following emergency rule for a maximum of 120 days, in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1). Effective date of this emergency rule is December 22, 1992.

In accordance with the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), The Bureau of Health Services Financing has implemented a new Medicaid Outstationed Enrollment Center Program effective July 1, 1992. Due to current federal law which requires states to outstation Medicaid eligibility workers at sites other than welfare offices, including Federally Qualified Health Clinics (FQHCs), and disproportionate share hospitals, Louisiana has adopted this new program. Although outstationed workers are not authorized to issue final eligibility determination for Medicaid applicants, they are certified by the Bureau of Health Services Financing to interview the applicant, and to complete the Medicaid application forms entirely.

Effective July 1, 1992, under a program titled the Louisiana Medicaid Outstationed Enrollment Center Program, certified Medicaid providers, in addition to certified non-for-profit agencies such as Councils On Aging and Community Action Agencies, began completing Medicaid applications for interested clients at their respective facilities. Certification to participate in this program is granted to those providers and other agencies which complete the required instructional training, in addition to completing all necessary documentation. This group of qualified enrollment centers includes a wide variety of types of facilities and agencies, including all of those listed above, particularly those mandated by federal law.

Since Outstationed Enrollment Centers will incur additional administrative costs from the completion of Medicaid applications, the Bureau of Health Services Financing will issue

reimbursements to Certified Medicaid Enrollment Centers in order to compensate these facilities for this cost.

The total cost for the implementation of this rule for the current fiscal period is estimated to be \$1,755,000.

EMERGENCY RULE

Effective December 22, 1992, Certified Medicaid Enrollment Centers will be eligible for a 50 percent cost reimbursement to offset administrative costs incurred during the process of taking Medicaid applications. Reimbursements will be granted in the form of a uniform, flat-fee rate on a per-application basis.

This rate will be established by calculating the weighted-average hourly cost associated with completing a typical Medicaid application form. This calculation will be generated through a random sampling survey which will be conducted by The Bureau of Health Services Financing.

These reimbursements will only be issued on those applications which are taken by certified individuals. The application does not have to be approved by the Regional Medicaid Eligibility Office in order for the reimbursement to be issued. However, certified enrollment centers will be subject to an audit program, and based on audit findings, any enrollment center that has above-average denial rates for the applications which it has submitted, will be ineligible for reimbursements until such time that the respective enrollment center lowers its denial rate to a point within the established norm.

Enrollment centers will be responsible for submitting a Cost Reimbursement Form which will be provided by the Bureau of Health Services Financing.

The format, structure and detailed requirements of this cost-reimbursement program are subject to change upon final approval from the Federal regulatory agency, HCFA (Health Care Financing Administration).

The Bureau of Health Services Financing anticipates that the final procedures for this reimbursement system will be operational within 90 days from the date of this rule. As soon as the Bureau of Health Services Financing and HCFA establish these procedures, all pertinent information and instructions will be forwarded to the enrollment centers.

Implementation of this program is mandated by the Omnibus Budget Reconciliation Act of 1990 (OBRA-90). OBRA-90 also establishes Medicaid federal financial participation available as administrative match for 50 percent of a state's outstationing expenditures. This rule is necessary to ensure compliance with mandated federal regulations, and to establish the guidelines by which the cost reimbursement program will operate.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding the emergency rule and providing information on the date of the public hearing on this matter. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. Copies of this emergency rule and all other Medicaid rules and regulations are available at Parish Medicaid Offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Special Low-Income Beneficiaries

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following emergency rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1).

In accordance with §4501(b) of the Omnibus Reconciliation Act of 1990, state Medicaid Programs are required to pay the Medicare Part B premiums of Specified Low-Income Medicare Beneficiaries (SLMBs). States are mandated to begin these payments effective January 1, 1993. This group is related to the Qualified Medicare Beneficiary group, but specific federal regulations regarding countable resources and income govern their eligibility. In order to comply with the Public Law and to avoid federal sanctions or penalties, the bureau is adopting this emergency rule establishing the eligibility of Specified Low-Income Medicare Beneficiaries for this benefit under Medicaid of Louisiana. It is estimated that implementation of the emergency rule will cost \$2,954,718 for the first year of implementation.

EMERGENCY RULE

Effective January 1, 1993 the Bureau of Health Services Financing hereby pays the Medicare Part B premiums for the Specified Low-Income Medicare Beneficiaries under Medicaid of Louisiana. Eligibility for this benefit include the following criteria. Prospective eligibles must be enrolled or conditionally enrolled in Part A of Medicare. In addition, their incomes must be between the allowed limit for the Qualified Medicare Beneficiaries and the maximum limit for the Specified Low-Income Medicare Beneficiaries. Their resources must not exceed two times the Supplemental Security Income resource limit and they must meet all other non-financial eligibility requirements for Medicaid of Louisiana.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule and providing information concerning the date of the public hearing on this matter. Copies of this emergency rule and all other Medicaid regulations are available for review at Parish Medicaid Offices.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Case Management for Ventilator Assisted Children

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the following rule in the Medicaid Program which was published in the *Louisiana Register*, Volume 12, Number 12, page 834, on December 20, 1986. In order to comply with recent federal interpretations of policy for case management services, the bureau will now require a notarized letter of assurance from the provider of case management services to ventilator assisted children that Medicaid requirements regarding beneficiary eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is being amended as noted below and this change will be incorporated in the provider manual. The cost of this change is not anticipated to exceed \$150. This rule takes effect January 21, 1993.

EMERGENCY RULE

2. Standards for Participation

A. - C. ...

D. sign a notarized letter of assurance that the requirements of Medicaid of Louisiana will be met.

...

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule and for providing information on a public hearing. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested persons.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Corrections Services

Adult Inmates Disciplinary Rules and Procedures

The Department of Public Safety and Corrections, Corrections Services, has exercised the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, to amend the rules and regulations relative to disciplinary rules and procedures for adult inmates and the policy for implementation.

The effective date of this emergency rule is February 15, 1993 and it shall remain in effect for 120 days or until it takes effect through the normal promulgation process, whichever is shortest.

Emergency rulemaking is necessary to avoid possible monetary losses and sanctions imposed by the courts against the department due to statutory changes in the good time laws which are reflected in current disciplinary procedures.

§341. Preface

This book of disciplinary rules and procedures constitutes clear and proper notice of same for each adult inmate within the Department of Public Safety and Corrections.

This book is effective February 15, 1993.

This book supersedes any and all conflicting disciplinary rules, procedures, posted policies, and appeal decisions affecting adult inmates that may have been previously issued.

Nothing in this book should be construed to create any additional rights or privileges under either state or federal law for any inmate or groups of inmates over and above those already provided by law.

§343. Foreword

The "Disciplinary Rules and Procedures for Adult Inmates" are established to help provide structure and organization for the prisons, and a framework within which the inmate population can expect the disciplinary system to function. They must be followed at all adult and contract facilities.

These rules, regulations, and procedures may only be changed by the secretary of the Department of Public Safety and Corrections.

In the event of a genuine emergency, such as a serious disturbance disrupting normal operations or a natural disaster, the secretary or his designee may suspend any and all disciplinary rules and procedures for the duration of the emergency. Full hearings must be held within a reasonable time after the end of the emergency for those inmates who were subject to serious sanctions (those that would have been appealable to the secretary under the provisions of these rules).

The pronouns "he" and "his" as they appear herein are used for convenience only and are not intended to discriminate against female employees or inmates.

§345. Definitions

Administrative Segregation (formerly referred to as *Administrative Lockdown*)—a temporary holding area, preferably a cell, where inmates are held whose continued presence in the general population poses a threat to life, property, self, staff, other inmates, the security or orderly running of the institution, or who are the subject of an investigation conducted by non-institutional authorities. In addition, inmates who are pending transfer to another institution or pending assignment or re-assignment within an institution may be held in *Administrative Segregation*. (Refer to section on "Disciplinary Procedures - Administrative Segregation".)

Appeal—a request by an inmate for review of a disciplinary decision. (Refer to section on "Appeals".)

Confidential Informant—person whose identity is not revealed to the accused inmate but who provides an employee(s) with information concerning misbehavior or planned misbehavior.

Counsel and Counsel Substitutes—*Counsel* is an attorney at law of the inmate's choice who must be retained by the

inmate. *Counsel Substitutes* are persons not admitted to the practice of law, but inmates who aid and assist, without cost, an accused inmate in the preparation and presentation of his defense and/or appeal.

Custody—the type of housing and the level of supervision required for an inmate. Custody assignments will reflect public safety as the first priority, staff and inmate safety within the institution as the second priority, and then institutional or inmate need.

Disciplinary Detention/Extended Lockdown—maximum security area for confining inmates. (Refer to section on "Disciplinary Procedures - disciplinary Detention/extended lockdown".)

Disciplinary Detention/Isolation—a punitive holding area where inmates are temporarily confined in a restricted situation after being so sentenced by the disciplinary board. (Refer to section on "Disciplinary Procedures - Disciplinary Detention/Isolation".)

Disciplinary Report—a report on the approved form filed by an employee who has reason to believe of his own knowledge that an inmate(s) has violated one or more disciplinary rules. Disciplinary reports may be heard by the disciplinary officer or the disciplinary board.

Hearings—a fair and impartial review conducted by the disciplinary officer or the disciplinary board.

Incident Report—a report on the approved form filed by an employee describing an instance of planned or committed misbehavior (usually filed when the information is obtained through sources other than the reporting employee's firsthand knowledge—sources such as confidential informants, other inmates, or non-employees), or to describe planned or committed misbehavior that may not be defined under a specific rule description. In addition, a document that may be used to review the appropriateness of a custody or classification assignment. Incident reports are heard by the disciplinary board.

Investigation Report—a report submitted for disposition to the disciplinary board detailing the facts uncovered in an investigation.

Maximum Custody—assignment of an inmate to a cell based upon the need to protect the inmate, other inmates, the public, staff, or the institution. Includes disciplinary Detention/extended lockdown and working cellblocks. May include protective custody/extended lockdown. Movements inside the secure perimeter of a facility by maximum custody inmates are closely monitored by staff and may include the utilization of restraints in accordance with institutional policy. Movement outside of a secure perimeter is accomplished only under armed supervision or when appropriately restrained.

Medium Custody—generally, assignment of an inmate to a dormitory housing area. Movement outside of a secure perimeter is accomplished only under armed supervision or when appropriately restrained. Institutional procedure governs internal movement controls.

Minimum Custody—generally, assignment of an inmate to a dormitory housing area. Movement outside of a secure perimeter is usually authorized without armed supervision or restraint. Institutional procedure governs the level of staff

supervision when outside the secure perimeter, as well as internal movement controls.

Posted Policy—as used herein, applies to policy memorandums detailing what behavior is required or forbidden of inmates and generally reflects the individual needs of the facility—such as, but not limited to, count procedure, off-limits areas, ID Card policy, cash money policy, and so forth. Posted policies must be distributed and posted in such a manner that inmates are placed on notice as to what behavior is required or forbidden, and the actions that may be taken should the policy be violated. (See Department Regulation No. 30-47.)

Protective Custody/Extended Lockdown—a classification utilized when an inmate has a verifiable need for protection. (Refer to section on "Disciplinary Procedures - Protective Custody/Extended Lockdown".)

Sanction—disciplinary penalty.

Security—the physical construction characteristics of the facility in terms of both perimeter security, building construction type, and internal movement controls.

Segregation—generic term used to encompass administrative segregation, protective custody, and disciplinary detention.

Working Cellblock—a form of maximum custody distinguished by access to work and other programs consistent with security restrictions and institutional procedures.

§347. Disciplinary Procedures

A. General Segregation Guidelines - Mental Health

A mental health professional (as defined by the responsible health authority at the institution) must document a personal interview with any inmate who remains in administrative segregation, protective custody, or disciplinary detention for more than 30 consecutive days. A mental health assessment must be made at least every three months thereafter if confinement is continuous.

B. Administrative Segregation Guidelines

1. An inmate whose continued presence in the general population poses a threat to life, property, self, staff, other inmates, or to the security or orderly running of the institution, or who is the subject of an investigation conducted by non-institutional authorities, may (with the approval of the highest ranking supervisor on duty in the unit where the incident occurred), be placed in administrative segregation until his appearance before the disciplinary board. The official, before the conclusion of his tour of duty, will review documentation for completeness, correctness, and investigate as needed to confirm the reasonableness of the allegation or circumstances prompting placement.

2. Inmates pending possible transfer to another facility, or pending assignment or re-assignment within an institution, may be held in administrative segregation. Inmates in administrative segregation pending such transfer will be entitled only to privileges allowed other inmates in administrative segregation.

3. Upon the request of an inmate or upon issuance of an "Incident Report" by appropriate institutional staff, an inmate may be placed in administrative segregation for his protection and/or the protection of others until the disciplinary officer/disciplinary board can review the circumstances and recommend appropriate action.

4. Time spent in administrative segregation must be credited against disciplinary detention/isolation or extra duty

sentences even when the sentence is suspended. Credit will not be given for time spent in administrative segregation on a request for protection or while awaiting transfer to another area.

5. Inmates in administrative segregation shall be allowed to receive all correspondence and to originate correspondence. Inmates in administrative segregation will be allowed: visits; clean clothing on a scheduled basis; toothbrush and toothpaste; sufficient heat; light; ventilation; toilet facilities; and the same meals as other inmates. The status of inmates in administrative segregation should be reviewed by an appropriate review board at least every seven days for the first two months and every 30 days thereafter.

C. Counsel Substitutes

Behavior of counsel substitutes and legal aid office workers must be above reproach. A job change is mandatory following conviction of a serious offense. Counsel substitutes are not required to file appeals but should inform the inmate who wants to appeal of the proper way to file. All counsel substitutes serve strictly at the discretion of the secretary. They may be removed from their positions if the secretary, or his designee, believes it appropriate. No inmate (counsel substitute or not) can sell or trade for value legal services of any sort. No inmate (counsel substitute or not) may perform services for an attorney on behalf of other inmates.

D. Disciplinary Board

A properly composed board will consist of two people—a duly authorized chairman, and a duly authorized member—each representing a different element (security, administration, or treatment). The chairman must be approved by the secretary. The member must be approved by the warden. Decisions must be unanimous. If the decision is not unanimous, the case is automatically deferred for referral to a different disciplinary board. Any chairman/member directly involved in the incident or who is biased for or against the accused cannot hear the case unless the accused waives recusal. Performance of a routine administrative duty does not necessarily constitute "direct involvement" or "bias".

E. Disciplinary Officer/Low Court Hearing

A *Disciplinary Officer* includes an employee from security, administration, or treatment appointed by the warden who conducts hearings of minor violations and who may impose only minor sanctions. Any disciplinary officer directly involved in the incident or who is biased for or against the accused cannot hear the case unless the accused waives recusal. Performance of a routine administrative duty does not necessarily constitute "direct involvement" or "bias". At these hearings, the accused inmate represents himself and is given full opportunity to speak in his own behalf. The presence of counsel substitutes, witnesses, or the accusing employee is not permitted. These hearings are not taped. Hearings shall be held within seven days of the incident, excluding weekends and holidays. The disciplinary officer may also hear inmates who have signed written requests for protection and may recommend appropriate action.

F. Disciplinary Detention/Extended Lockdown

1. An indeterminate period of lockdown characterized by routine 90 day classification reviews to determine eligibility/suitability for release from this status is known as *Disciplinary Detention/Extended Lockdown*. This type of

segregation is used primarily after a disciplinary hearing for an inmate found guilty of violating one or more serious rules, or of being dangerous to himself or others, or of being a serious escape risk, or of posing a clear threat to the security of the facility. A classification board hearing is sufficient for an inmate who is initially classified as maximum custody.

2. Inmates in disciplinary detention/extended lockdown should be reviewed by an appropriate review board for possible release to a less restricted status at least every 90 days.

G. Disciplinary Detention/Isolation

1. A determinate period of lockdown that is characterized by a limit of 10 consecutive days without a 24 hour break or no more than 20 days in a 30 day period is known as *Disciplinary Detention/Isolation*. After 10 consecutive days in disciplinary detention/isolation, the inmate must be released for a period of time not less than 24 hours. No inmate may be confined in disciplinary detention/isolation except by action of the disciplinary board on the basis of a disciplinary or incident report.

2. Inmates in disciplinary detention/isolation shall be allowed to receive all correspondence and to originate correspondence. Inmates in disciplinary detention/isolation will be allowed: visits; clean clothing on a scheduled basis; toothbrush and toothpaste; sufficient heat; light; ventilation; toilet facilities; and the same meals as other inmates. Desserts may be excluded from meals served to disciplinary detention/isolation inmates.

H. Protective Custody/Extended Lockdown

1. Utilized for an inmate in need of protection. A disciplinary board hearing is not necessary when an inmate has signed a written request for protection and is transferred to protective custody/extended lockdown by the disciplinary officer/disciplinary board.

2. Inmates in protective custody/extended lockdown should be reviewed by an appropriate review board for possible release to a less restricted status at least every seven days for the first two months and every 30 days thereafter.

I. Working Cellblock

An indeterminate period of assignment to a maximum custody status characterized by access to work and other programs consistent with security restrictions and institutional procedures. Classification reviews are utilized to determine eligibility/suitability for release from this status. This type of assignment is used primarily after a disciplinary hearing for an inmate found guilty of violating one or more serious rules, or of being dangerous to himself or others, or of being a serious escape risk, or of being in need of protection, or of posing a clear threat to the security of the facility. A classification board hearing is sufficient for an inmate who is initially classified as maximum custody.

§349. Hearings

A. Disciplinary Board

The accused inmate must be given a written copy of the disciplinary report or incident report describing the charges against him at least 24 hours before the hearing begins (unless waived by the inmate in writing). Before the hearing can begin, accused inmates must acknowledge that they are familiar with their rights. These rights are:

1. the right to present evidence and witnesses in his behalf,

provided the request is relevant, not repetitious, not unduly burdensome to the institution, or not unduly hazardous to staff or inmate safety. (The board has the option of stipulating expected testimony from witnesses. In such a case, the board should assign proper weight to such testimony as though the witness had actually appeared.);

2. the right to counsel substitute for all alleged violations. The right to outside retained counsel only when the alleged violation is one for which the inmate could also be tried in a criminal court, e.g., possession of illegal drugs, rape, aggravated battery, etc.;

3. no inmate can be compelled to incriminate himself;

4. the right to a written summary of the evidence and reasons for the judgment, including reasons for the sentence imposed, when the accused pled not guilty and was found guilty. (This will usually appear on the finalized report.);

5. the right to appeal consistent with the appeal procedure as outlined; and

6. the hearing must begin within 72 hours of placement in administrative segregation. Official holidays, weekends, genuine emergencies, or good faith efforts by the administration to provide a timely hearing are the only exceptions. When it is not possible to provide a full hearing within 72 hours of placement in administrative segregation, the accused must be brought before the board, informed of the reasons for the delay, and be remanded back to administrative segregation or released to his quarters after a date for a full hearing has been set.

B. Conduct of the Hearing

All rights and procedural requirements must be followed unless waived by the accused. Disciplinary board hearings must be tape recorded in their entirety, and the tapes preserved for 145 days. Hearings will generally be conducted as follows:

1. Inmates who do not choose to be present can sign a waiver which shall be read into the tape. Counsel substitute shall represent him. The same applies to disruptive inmates who refuse to cooperate. If the inmate refuses to sign a waiver, one shall be prepared and his refusal noted with two witnesses. In either case, the disciplinary chairman should also sign the waiver.

2. The accused enters his name and number into the record (the tape) as does his counsel or counsel substitute (if any) and confirms that he understands his rights. During the hearing, the accuser should only be present to testify. He may never be present during deliberations.

3. The chairman reads the disciplinary and/or incident report to the accused and asks for a plea. Available pleas are *not guilty* or *guilty*. Should the accused attempt to enter an unavailable plea or refuse to enter a plea, the chairman will enter a *not guilty* plea for him and proceed with the case.

4. Preliminary motions, if any, by the defense should now be made. Such motions must be raised at the first opportunity or be considered waived and may include:

a. dismissal of the charge(s);

b. a continuance (Inmates are not entitled to a continuance to secure counsel unless they are charged with a violation which is also a crime under state law. Only one continuance need be granted unless new information is produced. Therefore, all requests—to face accuser, call witness, etc.—must be made at once. A motion due to lack of

24-hour notice must be made at this time.);

c. an investigation;

d. cross examination of the accusing employee (the accusing employee must be summoned only when the report is based solely on information from confidential informants);

e. any other appropriate motions.

5. The board should rule on motions at the appropriate time and should give reasons for the ruling;

6. After entering his plea and motions, if any, the accused may present his defense. The board may ask questions of the accused, his witnesses, and/or his accuser. No inmate can be compelled to incriminate himself;

7. During deliberations, everyone except the board, the bailiff, and any official observers must leave the room, and the board will decide the case on the basis of the evidence presented at the hearing. Official observers must not take part in the hearing or the deliberations. The bailiff cannot participate in deciding the case or the sentence, and must not participate in the hearing at all when he is the accusing employee, unless he is summoned to testify under cross-examination. The accused's record may be examined to discover a pattern of similar misbehavior or a pending suspended sentence. The record may be examined in order to determine an appropriate sentence; and

8. Following the deliberations, the chairman will announce the verdict. If the verdict is guilty, the chairman will then announce the sentence. The board has full authority to suspend any sentence they impose for a period of up to 90 days.

9. A written summary of the evidence presented and reasons for the judgment (includes reasons for the sentence imposed) will be prepared in all cases that the accused pled *not guilty* and was found *guilty*. The convicted inmate will automatically be given or sent a written summary.

§351. Correcting Disciplinary Reports

A. A reviewing employee may change the rule number to fit the description prior to the hearing but should ensure that the accused gets a corrected copy of the report at least 24 hours before the hearing begins. Rule number(s) may be added if the offense is clearly described on the report. An incident may consist of several related events, however, each separate and distinct rule violation should be processed independently in the disciplinary system.

B. Before the hearing begins, the board may change the rule number to match the description of alleged misbehavior, if necessary, and also may change the rule number at any point prior to the deliberations, but should offer the accused a continuance to prepare the defense. It is the description of the conduct and not the rule number which determines the offense. The continuance may be waived and does not necessarily need to be for 24 hours.

§353. Hearings of Incident Reports

When the report is based solely on information from a confidential informant, or from an inmate whose identity is known, it must be corroborated by witnesses (who may be other confidential informants, the record, or other evidence.) The only time the accusing employee must be summoned for cross examination is when the report is based solely on information from confidential informants. In order for the accuser to attest to the reliability of the information received from a confidential informant, the informant must not have been unreliable in the

past and must have legitimate knowledge of the present incident(s).

§355. Sanctions

A. Sentences must fit the offense and the offender. An inmate with a poor conduct record may receive a more severe sentence than an inmate with a good conduct record for the same offense. Even so, serious offenses call for serious penalties. An inmate who violates more than one rule or the same rule more than once during an incident may receive a permissible sanction for each violation. After a finding of guilt for a new violation, a previously suspended sentence may be imposed as well as a new sentence. State and federal laws apply to inmates. In addition to being sanctioned by prison authorities, therefore, inmates may also be prosecuted in state or federal court for criminal conduct. Restitution imposed in accordance with Department Regulation No. 30-41 is not a disciplinary penalty and may be assessed in addition to all other permissible penalties.

B. An inmate who has established a documented pattern of behavior indicating that he is dangerous to himself or others is a habitual offender. This includes an inmate who has been convicted of three major violations or a total of five violations in a six month period. Major violations are Schedule B offenses and incident reports concerning escape, violence, strong-arming, theft, smuggling of contraband, or threats to security. A habitual offender may receive Schedule B penalties following conviction of a Schedule A offense when he has established a documented pattern of hostile or disruptive behavior as defined above.

§357. Penalty Schedule. Disciplinary Report (Heard by Disciplinary Officer)

A. After a finding of guilt, the disciplinary officer may impose one or two of the penalties below for each violation:

1. reprimand;
2. extra duty—up to four days for each violation;
3. loss of minor privilege for up to two weeks.

B. *Extra Duty*—work to be performed in addition to the regular job assignment as specified by the proper authority. One day of extra duty is eight hours of work.

C. Minor privileges are:

1. radio and/or TV;
2. recreation and yard activities;
3. telephone (except for emergencies and legal);
4. movies;
5. loss of canteen privileges;
6. any other similar privilege (example: hobbycraft).

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

After a finding of guilt, the disciplinary board may impose one or two of the penalties below:

A. Schedule A

1. reprimand;
2. loss of minor privilege for up to two weeks;
3. extra duty - up to four days for each violation;
4. disciplinary detention/isolation - up to five days for each violation;
5. loss of good time - up to one-half of the amount earned by the inmate for one month;
6. quarters change;

7. job change;
8. loss of plasma privileges - up to four visits.

B. Schedule B

1. reprimand;
2. loss of minor privilege for up to four weeks, unless violation involved abuse of that privilege - eight weeks;
3. loss of major privilege as designated below;
4. extra duty - up to eight days for each violation;
5. disciplinary detention/isolation - up to 10 days for each violation;
6. loss of good time - up to the amount earned by the inmate for one month;
7. quarters change;
8. job change;
9. loss of hobbycraft - up to six months;
10. custody change from minimum to medium custody status (imposition of this penalty may include transfer to another institution);
11. custody change from minimum or medium custody status to maximum custody status (working cellblock or disciplinary detention/extended lockdown). (Imposition of this penalty may include transfer to another institution.)

C. Extra duty and minor privileges are defined above. Major privileges are:

1. confinement to room or cell for up to one month;
2. loss of visiting, if the violation involves visiting, for up to three months;
3. loss of plasma privileges for up to 12 visits unless it falls into the special category designated by the secretary for self-mutilation;
4. any other similar privilege.

§361. Penalty Clarifications

A. Good Time

The date of the offense controls the month for which an inmate fails to earn good time through disciplinary action (such "failure to earn" occurring for the month during which the offense was committed). An inmate can only lose as much good time as he can earn.

B. *Penalty Schedule*—incident report (heard by disciplinary board)

After a finding of guilt, the disciplinary board may impose Schedule B sanctions as previously defined, may make a recommendation of transfer to another institution, or may place the inmate in protective custody/extended lockdown.

C. Restitution

Restitution may be obtained by a disciplinary board in accordance with Department Regulation No. 30-41 from an inmate who damages or destroys property, causes or attempts to cause injury to himself, other inmates and/or staff, or who has a pattern of alleging injury or illness with the result that medical expenses are incurred and after a finding of guilt by a disciplinary board following a full (due process) hearing. Restitution is not a disciplinary penalty.

D. Suspended Sentences

The disciplinary officer or the disciplinary board may suspend any sentence they impose for a period of up to 90 days. The period of suspension begins on the date of sentence. When the time period has expired, the report itself remains a part of the record, although the sentence may no longer be imposed.

§363. Appeals

A. Appeals to the Disciplinary Board

An inmate who wants to appeal a case heard by the disciplinary officer ("Low Court") must appeal to the disciplinary board ("High Court"). As soon as the sentence is passed, the inmate who wants to appeal must clearly say so to the disciplinary officer who will then automatically suspend the sentence and schedule the case for the disciplinary board. The appeal hearing before the disciplinary board is a full hearing the same as any other hearing conducted by the board. The disciplinary board cannot upgrade the sanction imposed by the disciplinary officer.

The appeal to the disciplinary board will be the final appeal in a case heard by the disciplinary officer. No other appeals are allowed. The appeal from the disciplinary officer to the disciplinary board will constitute the final administrative remedy regarding the disciplinary decision. Decisions rendered by the disciplinary officer and appealed to the disciplinary board may not be appealed to the warden nor to the secretary.

B. Appeals to the Warden

An inmate who wants to appeal a case heard by the disciplinary board ("High Court") must, in all cases, appeal to the warden. The inmate may appeal himself or through counsel or counsel substitute. In either case, the appeal must be received within 15 days of the hearing. The appeal should be clearly written or typed on Form AF-1. If the form is not available, the appeal may be on plain paper but should contain the information called for on the form. The warden will render all appeal decisions within 30 days of the date of receipt of the appeal unless circumstances warrant an extension of that time period and the inmate is notified accordingly.

Lengthy appeals of disciplinary actions will not be accepted into the appeals process. It is necessary only that the inmate provide basic factual information regarding his case. Appeals that are too long will be returned to the inmate for summarization. The inmate will have five days from receipt to comply with the instructions and resubmit. It is important to remember that our ability to respond to legitimate problems in a timely fashion depends upon everyone's cooperation.

C. Appeals to the Secretary

An inmate who wants to appeal the decision of the warden to the secretary will indicate that he is "not satisfied" in the appropriate box on the warden's "Appeal Decision" (Form AF-2) and submit it to the ARP Screening Officer. The form must be submitted within five days of its receipt by the inmate. No supplement to the appeal will be considered. It is only necessary that the inmate check the box indicating "I am not satisfied", date, sign, and forward to the ARP Screening Officer. The ARP Screening Officer will provide the inmate with an acknowledgement of receipt and date forwarded to the secretary's office. The institution will provide a copy of the inmate's original appeal to be attached to the Form AF-2 for submission to the secretary.

The secretary will only consider appeals from decisions of the warden which resulted in an imposed or suspended sentence of one or more of the following penalties:

1. disciplinary detention/isolation;
2. loss of good time;
3. custody change from minimum to medium only if it

involves transfer to another institution;

4. custody change to maximum custody.

In addition, all "Restitution" assessments may be appealed to the secretary.

The secretary will render all appeal decisions within 85 days of the receipt of the appeal, unless circumstances warrant an extension of that time period and the inmate is notified accordingly. Absent unusual circumstances, the secretary will only consider review of the "Sentence" of an inmate who pled guilty.

§365. Disciplinary Rules

An inmate found guilty of violating one or more of the rules defined below will be punished according to the penalty schedule designated in the rule and the type of hearing provided.

A. Contraband (Schedule B)

No inmate shall have under his immediate control any drugs (such as, but not limited to, heroin, LSD, amphetamines, barbiturates, marijuana), unauthorized medication, alcoholic beverage, yeast, tattoo machine, or tattoo paraphernalia, syringe, weapon (such as, but not limited to, firearm, knife, iron pipe), or any other item not permitted by institutional posted policy to be received or possessed, or any other item detrimental to the security of the facility, or smuggle or try to smuggle such items into or out of the facility. In some facilities, where posted, currency is contraband. No inmate shall sell or give away any above defined contraband item. Inmates clearly seen by employees to have contraband in their possession are in violation of this rule. The area of immediate control is an inmate's person, his locker(s), his cell, his room, his bed, his laundry bag, and his assigned job equipment (such as, but not limited to, his desk, his tool box, his locker at the job, his typewriter, or under his bed on the floor) unless the evidence clearly indicated that it belonged to another inmate. Contraband found in a cell shared by two or more inmates will be presumed to belong to all of them equally. Any inmate who is tested for and has a positive reading on a urinalysis test will be considered in violation of this rule. Any item not being used for the purpose for which it was intended will be considered contraband if it is being used in a manner that is clearly detrimental to the security of the facility.

1. Unauthorized Items (Schedule A)

This distinguishes between contraband items that are detrimental to the security of the facility and those that are not authorized but clearly not detrimental to the safety and security of the facility.

B. Rescinded.

C. Defiance (Schedule B)

No inmate shall commit or threaten physically or verbally to commit bodily harm upon an employee. No inmate shall curse or insult an employee and/or his family. No inmate shall threaten an employee in any manner, including threatening with legal redress during a confrontation situation (this does not mean telling an employee of planned legal redress outside a confrontation situation and does not mean the actual composition or filing of a writ or suit.) No inmate shall obstruct or resist an employee who is performing his proper duties. No inmate shall try to intimidate an employee to make the employee do as the inmate wants him to do. Employees shall not be subject to abusive conversation, correspondence, phone calls, or gestures.

D. Disobedience (Schedule A)

Inmates must obey the posted policies for the facility in which they are confined. They must obey signs or other notices of restricted activities in certain areas, safety rules, or other general instructions. The only valid excuse for disobedience or aggravated disobedience is when the immediate result of obedience would be bodily injury (this includes incapacity by virtue of a certified medical reason).

E. Disobedience, Aggravated (Schedule B)

Inmates must obey direct verbal orders cooperatively and promptly; not debate, argue, or ignore them before obeying. When orders conflict, the last order received must be obeyed. Even orders the inmate believes improper must be obeyed; grievances must be pursued through proper channels. Sentences imposed by the disciplinary officer or the disciplinary board are to be carried out by the inmate. Violations of duty status will apply to this rule as will a violation of an order from the disciplinary board. The only valid excuse for disobedience or aggravated disobedience is when the immediate result of obedience would be bodily injury (this includes incapacity by virtue of a certified medical reason).

F. Disorderly Conduct (Schedule A)

All boisterous behavior is forbidden. This includes, but is not limited to, horseplay, or to disorderly conduct in the mess hall, the visiting room, or during counts. Inmates shall not jump ahead or cut into lines at the store, movie, mess hall, or during group movements of inmates. Visitors shall be treated courteously and not be subjected to disorderly or intrusive conduct. Inmates shall not communicate verbally into or out of cellblocks or other housing areas.

G. Disrespect (Schedule A)

Employees shall not be subject to disrespectful conversation, correspondence, or phone calls. Inmates shall address employees by proper title or by "Mr.", "Ms.", "Miss", or "Mrs." whichever is appropriate.

H. Escape (Schedule B)

An escape or attempt to escape from the grounds of an institution or from the custody of an employee outside a facility, successful or not, or the failure to return from a furlough or pass, or being absent from a facility without leave, is a violation. R.S. 15:571.4 and Department Regulation No. 30-9A may provide for forfeiture of good time for aggravated escape or simple escape. (R.S. 14:110A.(2) provides for additional conditions under which an inmate in work release status may be charged under this rule.)

I. Favoritism (Schedule B)

No inmate shall bribe, influence, or coerce anyone to violate institutional policies, procedures, rules, or state or federal laws, or attempt to do so. No inmate shall give an employee anything of any value.

J. Fighting (Schedule B)

Hostile physical contact or attempted physical contact is not permitted. This includes fist fighting, shoving, wrestling, kicking, and other such behavior.

Self-Defense Clarification: Self-Defense is a complete defense and can be established to the board by demonstrating that his actions did not exceed those necessary to protect himself from injury.

K. Fighting, Aggravated (Schedule B)

Inmates shall not fight with each other using any object as a weapon (including any liquid or solid substances thrown or otherwise projected on or at another person). When two or more inmates attack another inmate without using weapons, the attackers are in violation of this rule, as are all participants in a group or "Gang" fight. The use of teeth will also be sufficient to constitute a violation of this rule. No inmate shall intentionally inflict serious injury or death upon another inmate. Contact does not necessarily have to be made for this rule to be violated.

Self-Defense Clarification: Self-defense is a complete defense and can be established to the board by demonstrating that his actions did not exceed those necessary to protect himself from injury.

L. Gambling (Schedule B)

No inmate shall operate or participate in any game of chance involving bets or wagers or goods or other valuables. Possession of one or more gambling tickets or stubs for football or any other sport is a violation. No inmate shall operate a book making scheme. Possession of gambling sheets with a list of names or codes, point spreads, how much owed, or how much wagered will be considered a violation.

M. Deleted. See Sanctions Section.

N. Intoxication (Schedule B)

No inmate shall be under the influence of any intoxicating substance at an institution or while in physical custody. Returning from a pass or furlough under the influence of an intoxicating substance is a violation.

O. Malingering (Schedule A)

1. **Sick Call:** A qualified medical staff person (as defined by the institution's responsible health authority) determines that an inmate has made repeated and frequent complaints at sick call having little or no merit.

2. **Declaration of Emergency:** A qualified medical staff person (as defined by the institution's responsible health authority) determines that an inmate has sought emergency medical treatment not during scheduled sick call for a minor ailment that was or could have been properly handled at sick call.

P. Malingering, Aggravated (Schedule B)

A qualified medical staff person (as defined by the institution's responsible health authority) determines that an inmate has sought emergency medical treatment not during scheduled sick call when there was no ailment.

Q. Property Destruction (Schedule B)

No inmate shall destroy the property of others or of the state. Flooding an area and the shaking of doors ("racking down") are not permitted. Standing or sitting on face bowls is a violation. Whether or not the inmate intended to destroy the property and/or the degree of negligence involved may be utilized in defense of the charge.

R. Radio/Tape Player/TV Abuse (Schedule A)

Radios/tape players/TV's must be used in accordance with the posted policies of the facility. Radios/tape players/TV's must be played at a reasonable volume so as not to disturb others. Violations of posted policies regarding radios/tape players/TV's may be processed under this rule. In addition to any sanction that may be imposed by the disciplinary officer or the disciplinary board, the ranking employee on duty may

confiscate the radio/tape players/TV's for a period of up to 30 days. For repeated violations, the radio/tape player/TV will be confiscated and disposed of in accordance with Department Regulation No. 30-22. The inmate will not be permitted to have a similar item sent to him for one year.

S. Self-Mutilation (Schedule B)

No inmate shall deliberately inflict or attempt to inflict injury upon himself, upon a consenting inmate, or consent to have an injury inflicted upon himself. Tattoos, piercing of any parts of the body, and alterations to teeth are specifically included in this rule. Not included are obvious suicide attempts.

Self-Mutilation (Special Sanction): Any inmate found guilty of an act of self-mutilation which results in a limited duty status in excess of five days will be subject to lose his/her plasma privilege and/or store privileges for one year's time.

T. Rescinded.

U. Sex Offenses, Aggravated (Schedule B)

Carnal copulation by two or more inmates with each other, or by one or more inmates with an implement or animal(s), is not permitted. Two or more inmates who have obviously been interrupted immediately before or after carnal copulation are in violation. The same applies to one or more inmates with an implement or animal(s). Use of the genital organs of one of the inmates, regardless of sex, is sufficient to constitute the offense. Overt sexual activity in the visiting room is not permitted. No inmate shall invade the privacy of an employee with sexual remarks or threats in conversation, or by correspondence or phone calls. No inmate shall deliberately expose the genital organs and/or masturbate in view of an employee or visitor. No inmate shall sexually assault a person by force or threat of force.

V. Theft (Schedule B)

No inmate shall steal from anyone. *Forgery*, a form of theft, is the unauthorized altering or signing of a document(s) to secure material return and/or special favors or considerations. (The very act of the forgery will constitute proof of the crime. It need not have been successful in its conclusion.) *Fraud*, a form of theft, is the deliberate misrepresentation of fact to secure material return and/or special favors or considerations. Any inmate who knowingly submits obviously false information to any employee within the Department of Public Safety and Corrections is guilty of this violation. Lying to the secretary or warden on appeal or in any other part of the administrative remedy procedure or in correspondence will also be a violation. Those who file administrative remedy requests that are frivolous or deliberately malicious may be disciplined under this rule. No inmate shall have stolen items under his immediate control. No inmate shall have institutional property under his immediate control unless he has specific permission; this includes institutional foodstuffs in excess of what a reasonable person might be expected to eat at one sitting. (Refer to Rule Number One for the definition of "Area of Immediate Control".)

W. Rescinded.

X. Unauthorized Area (Schedule A)

An inmate must be in the area in which he is authorized to be at that particular time and date or he is in an unauthorized area. No inmate shall go into any housing unit other than that to which he is assigned (this includes standing in the doorway)

unless he has permission.

Y. Unauthorized Food (Schedule A)

No inmate shall have under his immediate control any food not sold by the inmate canteen or not otherwise permitted. No inmate shall have institutional foodstuffs under his immediate control outside the mess hall without specific permission. No inmate shall take extra portions of rationed food items at the serving counter. This rule, not Rule Number 21 applies to unauthorized possession of institutional foodstuffs not exceeding that which an inmate could be reasonably expected to eat at one sitting. (Refer to Rule Number One for the definition of "Area of Immediate Control".)

Z. Unsanitary Practices (Schedule A)

Inmates must not spit or drop litter or cigarette butts anywhere but into a proper receptacle. Inmates must not smoke in unauthorized areas. Inmates must maintain themselves, their clothing, and their shoes in as presentable a condition as possible under prevailing circumstances. Each inmate is responsible for keeping his bed and bed area reasonably clean, neat, and sanitary. Beds will be made according to the approved posted policy at the facility. Inmates must wear shoes/boots and cannot wear shirts that leave the armpits exposed or shorts into the mess hall, or chew gum in the mess hall.

AA. Work Offenses (Schedule A)

Inmates must perform their assigned tasks with reasonable speed and efficiency. Though inmates have specific job assignments, it may be required that they do work other than what their job assignments require; this work shall also be done cooperatively and with reasonable speed and efficiency. Being present, but not answering at the proper time at work roll call is a violation. A school assignment is considered to be a work assignment for the purposes of this rule.

BB. Work Offenses, Aggravated (Schedule B)

An inmate who flatly refuses to work or to go out to work, or who asks to go to administrative segregation rather than work, is in violation of this rule, as is an inmate who disobeys repeated instructions as to how to perform his work assignment. Hiding out from work or leaving the work area without permission is a violation. Falling far short of fulfilling reasonable work quotas is not permitted. Being absent or late from work roll call without a valid excuse (Such as no duty or callout) is a violation, as is not reporting for extra duty assignment. Being late to work (includes being late to school assignment) is a violation. A school assignment is considered to be a work assignment for the purposes of this rule.

§367. Notice

R.S.15:866.2 provides that any property (including money) which you leave within the Department of Public Safety and Corrections for 90 days after your release and to which you make no claim shall be considered abandoned and will be disposed of in accordance with the law.

§369. Lost Property Claims

The purpose of this section is to establish a uniform procedure for handling "Lost Property Claims" filed by individuals in the custody of the Louisiana Department of Public Safety and Corrections, Corrections Services. All wardens and superintendents are responsible for implementing and advising inmates and affected employees of its contents.

A. When an inmate suffers a loss of personal property, he may submit a claim to the warden/superintendent. The claim should be submitted on the attached Form A. The claim must include the date the loss occurred, a full statement of the circumstances which resulted in the loss of property, a list of the items which are missing, the value of each lost item, and any proof of ownership or value of the property available to the inmate. All claims for lost personal property must be submitted to the warden/superintendent within 10 days of discovery of the loss.

Under no circumstances will an inmate be compensated for an unsubstantiated loss, or for a loss which results from the inmate's own acts or for any loss resulting from bartering, trading, selling to, or gambling with other inmates.

B. The warden/superintendent, or his designee, will assign an employee to investigate the claim. The investigative officer will investigate the claim fully and will submit his investigation report and recommendation to the warden/superintendent, or his designee.

C. If a loss of an inmate's personal property occurs through the negligence of the institution and/or its employees, the inmate's claim may be processed in accordance with the following procedures:

1. Monetary

a. The warden/superintendent, or his designee, will recommend a reasonable value for the lost personal property as described on Form A. The maximum liability for certain classes of items is established at \$50 per Department Regulation No. 30-22;

b. Forms B and C (copies attached) will be completed and submitted to the inmate for his signature; and

c. The claim will then be submitted to the office of the secretary for review and processing.

2. Non-Monetary

a. The inmate is entitled only to state issue where state-issued items are available;

b. The warden/superintendent, or his designee, will review the claim and determine whether or not the institution is responsible;

c. Form B will be completed and submitted to the inmate for his signature; and

d. Form C will be completed and submitted to the inmate for his signature when state issue replacement has been offered.

D. If the warden/superintendent, or his designee, determines that the institution and/or its employees are not responsible for the inmate's loss of property, the claim will be denied, and Form B will be submitted to the inmate indicating the reason. If the inmate is not satisfied with the resolution at the unit level, he may indicate by checking the appropriate box on Form B and submitting to the ARP Screening Officer within five days of receipt.

E. It is only necessary that the inmate check the box indicating "I am not satisfied", date, sign, and forward to the ARP Screening Officer. The ARP Screening Officer will provide the inmate with an acknowledgement of receipt and date forwarded to the secretary's office. The institution will provide a copy of the inmate's original Lost Personal Property Claim (Form A) and Lost Personal Property Claim Response (Form

B) and other relevant documentation for submission to the secretary.

AF-1

APPEAL FROM THE DISCIPLINARY BOARD

APPELLANT: _____ DATE OF REPORT: _____

ORIGINAL CHARGE: _____ DATE OF HEARING: _____

CHARGE FOUND GUILTY OF: _____ LOCATION OF HEARING: _____

BOARD MEMBERS: _____ SENTENCE IMPOSED: _____

COUNSEL: _____

SENTENCE SUSPENDED: YES NO

PLEA: GUILTY NOT GUILTY

.....

ISSUES

ARGUMENT

RELIEF DESIRED

DATE OF APPEAL: _____

SUBMITTED BY: _____

NUMBER: _____ LOCATION: _____

APPEAL DECISION

LOST PERSONAL PROPERTY CLAIM RESPONSE

CLAIM # _____

DATE _____

DECISION NUMBER: DBA _____

TO: INMATE NAME DOC # HOUSING

TO: INMATE NAME DOC # HOUSING

FROM: WARDEN/SUPERINTENDENT

FROM: _____

DATE: _____

Your request for reimbursement/settlement/replacement of your lost personal property has been reviewed with the below recommended actions:

RE: DATE OF REPORT DATE OF HEARING ORIGINAL CHARGE PLEA: GUILTY NOT GUILTY CHARGE FOUND GUILTY OF: SENTENCE: IMPOSED SUSPENDED

- DENIED Your records were reviewed and no proof of ownership is indicated. Unallowable item at this institution. Clothing/items improperly marked according to inmate posted policy. Item illegally obtained. Investigation reveals loss resulted from barter, gambling, or sale. Investigation has proved your claim invalid or unsubstantiated. Loss resulted from irresponsibility on the part of the inmate to keep personal items secure in footlocker, cell, etc. Other

- APPROVED The inmate will be offered state issue items as replacement for the items reported missing. Monetary settlement in the amount of \$ will be processed. Other

I am not satisfied with this decision and wish to appeal to the Secretary in accordance with the conditions set forth in the "Disciplinary Rules and Procedures for Adult Inmates." The Secretary will only consider appeals from decisions which resulted in the imposed or suspended sentences of one or more of the following penalties: 1) Isolation; 2) Loss of Good Time; 3) Custody change-minimum to medium-if it involves transfer; 4) Custody change to maximum custody; 5) Restitution.

Signature of Investigating Officer: _____

DATE: INMATE SIGNATURE: _____

Signature of Inmate DOC # DATE

Instructions to inmate: Forward to "ARP Screening Officer" within 5 days of your receipt of this decision.

Warden/Superintendent/or Designee

I am not satisfied with this decision and wish to appeal to the Office of the Secretary.

STATE OF LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

AGREEMENT

(Institution)

I, (Inmate's name), (Number), having filed a claim for lost property on do hereby acknowledge receipt of

TO BE COMPLETED BY THE INMATE/STUDENT

LOST PERSONAL PROPERTY CLAIM

- 1. Claimant: (Name, number, and location)
2. Date of Loss:
3. Circumstances which resulted in the loss of personal property:
4. Items lost (include description) Value:

as full settlement, compromise, and discharge of any and all liability which exists or which might exist, and do hereby agree to release and discharge the State of Louisiana (Department of Public Safety and Corrections) and any and all of its agents, representatives, officers, and employees from any and all liability for compensation, damages, and all other amounts, if any, which might be due me by reason of the loss reported on (Date) (whether the liability, if any, be in damages, tort, or otherwise, or whether the liability, if any, be under the laws of the State of Louisiana, or the laws of the United States). I agree to have this claim processed and settled in accordance with the terms set forth in this agreement.

WITNESSES: Signature of Inmate Date

NOTE: False claims or false representations of lost items' value will subject the claimant to disciplinary action.

- 5. Attach to this document any proof of ownership or proof of value available to claimant.
6. A claim must be submitted within ten (10) days of the date of the loss. The claim is to be submitted to the Warden/Superintendent of the institution.

Warden/Superintendent Approval

Secretary's Approval (Necessary only for monetary settlement)

SUBMITTED BY: (Signature of claimant) DATE SUBMITTED:

Richard L. Stadler Secretary

DECLARATION OF EMERGENCY

Department of State Office of the Secretary

Executive Branch Lobbying

In accordance with R.S. 49:953(B), the Department of State, Office of the Secretary, is exercising the emergency provisions of the Administrative Procedure Act to implement the provisions of Act 755 of the 1991 Regular Session of the Louisiana Legislature, specifically R.S. 42:1211 through 1221. This rulemaking establishes policies and procedures for the registering and reporting of Lobbyist and Lobbyist Principals before State Agencies and is necessary in order that the provisions of R.S. 42:1211 through 1221 may be implemented and administered in a timely manner. The effective date of this emergency rule is January 1, 1993 and shall remain in effect for 120 days or until final rule promulgation takes effect. Emergency rulemaking is necessary in order that individuals know the procedures and rules for registering prior to lobbying the executive branch. It is expected that lobbyists register by February 1, 1993, prior to final rules being in effect.

EMERGENCY RULE

Chapter 1. Executive Branch Lobbying

§101. Policy

R.S. 42:1211-1221, Lobbying Before State Agencies (hereinafter referred to as "Executive Branch Lobbying"), adopts registering and reporting procedures for Executive Branch Lobbying, effective January 1, 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department, Office of the Secretary, LR 19:

§103. Definitions

For all purposes of these emergency rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

Associated—as it relates to being associated with a lobbyist or a lobbyist principal he represents in R.S. 42:1214(A)(3), shall mean joint ownership of any business, economic enterprise, or legal entity, or full time employment with any business, economic enterprise, or legal entity in which the executive branch official exercises control or owns an interest in excess of 25 percent. (R.S. 42:112).

Executive Branch Action—as defined in R.S. 42:1212(1), shall not apply to the assembling and reporting of information to executive branch agencies as required by law. *Executive Branch Action* shall also not include an action which affects only the internal operations of the agency, such as purchasing decisions and negotiations over the terms of a contract to provide services.

Executive Branch Official, Official, Officer or Employee Authorized to Exercise Functions of State Government—as defined in R.S. 42:1212(2), shall not include any executive branch official, official, officer, or employee who participates in an executive branch action, but who is not specifically authorized or designated by one who is authorized to render a final decision on an executive branch action.

Expenditure—as defined in R.S. 42:1212(3), includes anything of economic value. The term "thing of economic value" as defined in R.S. 42:1102(22) shall apply to this Chapter, as applicable.

For the Purpose of Lobbying—contained in this Chapter shall mean only a situation in which an individual's principal purpose is lobbying.

Lobbying—as defined in R.S. 42:1212(5), shall not apply to mass media expenditures which are attributable directly to the production of a "news letter" which is solely for the dissemination of information regarding executive branch action or the status of executive branch action. The term shall not apply to any request for information concerning an executive branch action or agency, or a request to send comments to an agency regarding an executive branch action. The term shall also not apply to an inquiry as to the status of an executive branch action.

Lobbyist—as defined in R.S. 42:1212(6), includes an individual who represents an organization, association, or other group for the purpose of lobbying, whether compensated or not. It shall not include each member of the organization, association, or group, but only an individual who lobbies as an authorized representative of an organization, association, or other group.

a. *Lobbyist*—also includes a person who lobbies and who has a pecuniary interest in the executive branch action. The term "pecuniary interest" shall mean a direct and substantial pecuniary interest which is of greater benefit to the person than to a general class or general group of persons, except it shall not include:

- i. the interest that the person has in his position, office, rank, salary, per diem, or other matter arising solely from his own present business, employment, or office;
- ii. the interest that a person presently has as a member of the general public.

b. *Lobbyist*—further includes a public official or public employee who lobbies. It shall not mean an elected public official who is performing his duties of office and acting on behalf of the citizens who elected the public official. It shall also not mean a public employee who provides information on an executive branch action to espouse the view or position of the public entity.

Lobbyist Principal—as defined in R.S. 42:1212(7), shall not include the employees or members of the staff of the lobbyist principal or the employees or members of the association, organization, or corporation which is a lobbyist principal.

Salary and Compensation—as provided for in R.S. 42:1212(3)(d) and as they relate to payments made to a lobbyist, shall not include any monies paid to the lobbyist solely for the performance of his job duties; including, but not limited to monies received from partnership distributions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department, Office of the Secretary, LR 19:

§105. Applicability

A. This Chapter shall be applicable to all persons who are defined as lobbyists in R.S. 42:1212(6), except those excluded under R.S. 42:1213, and those excluded by extension under

these rules in which it was the intent of the legislature to exclude.

B. In regards to R.S. 42:1213(3), *usual job functions of an employee* shall mean his daily job duties. Furthermore, *primary function of an employer* shall mean an employer who owns, operates, or has at least a 25 percent joint ownership of a lobbyist firm, association, or economic enterprise.

C. In regards to R.S. 42:1213(4), the exclusion shall be applicable to any newspaper which publishes editorial comment, news articles, and advertisements for or against executive branch action and which otherwise lobbies only by appearing before an executive branch agency to give information.

D. In regards to R.S. 42:1213(5), the exclusion shall also be applicable to an executive branch official's designee, as authorized by law, who is acting in an official capacity on behalf of the executive branch official.

E. In regards to R.S. 42:1213(6), the time computation for the 16 hour time limitation shall include only those hours actually spent lobbying on an executive branch action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department, Office of the Secretary, LR 19:

§107. Registration Fees

A. A fee of \$50 for each registrant who receives any compensation, economic consideration, or reimbursement for lobbying for each registration and each renewal of the registration.

B. A fee of \$25 for all other registrants for each registration and each renewal of the registration.

C. All fees shall accompany the Executive Branch Lobbying Registration Form. Fees may be tendered in cash or by check, made payable to the Secretary of State.

D. Registration forms received without proper payment of fees shall be returned to the registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department, Office of the Secretary, LR 19:

§109. Forms to be used in Registering and Reporting

A. The registration form to be filed with the Secretary of State is called an Executive Branch Lobbyist Registration Form.

B. The lobbyist reporting form to be filed with the Secretary of State is called an Executive Branch Lobbyist Expenditure Report Form.

C. The lobbyist principal reporting form to be filed with the Secretary of State is called an Executive Branch Lobbyist Principal Expenditure Report Form.

D. The sworn statement of employment form to be filed with the Secretary of State is called the Executive Branch Lobbyist Employment Verification Form and shall be attached to the registration form and labeled "Attachment A". Only the employer is required to sign the verification form, provided the lobbyist is employed by one employer. The lobbyist is required to disclose all persons whose interest he represents, if different from the employer, on the registration form. If the lobbyist is actually employed by more than one employer, each employer must sign a verification form.

E. The affidavit report form, provided for in lieu of a report form, in R.S. 42:1215(A)(2), to be filed with the Secretary of State is called an Executive Branch Expenditure Affidavit Form.

F. All forms shall be stocked and dispensed upon request by the Secretary of State's Office, Commissions Division, P. O. Box 94125, Baton Rouge, LA 70804-9125, (504) 342-4980.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department, Office of the Secretary, LR 19:

§111. Place of Filing Executive Branch Lobbyist Registration and Expenditure

Report Forms

A. The proper place to file an Executive Branch Lobbyist Registration or Expenditure Report Form is with the Secretary of State's Office, Commissions Division, P. O. Box 94125, Baton Rouge, LA 70804-9125, (504) 342-4980.

B. It is necessary that an original and one copy of the required forms be filed with the Secretary of State.

C. All registration and reporting forms shall be signed by the proper party under oath. The Secretary of State shall return any filings which are not signed under oath.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department, Office of the Secretary, LR 19:

§113. Public Records

A. All reports filed with the Secretary of State shall be maintained as a public record available for public inspection during normal working hours.

B. The Secretary of State shall charge a reasonable amount for copies of such reports as approved by the Joint Legislative Committee on the Budget.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1211-1221.

HISTORICAL NOTE: Promulgated by the Department, Office of the Secretary, LR 19:

W. Fox McKeithen
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Alligator Regulations (LAC 76:V.701)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, 259, 261, 262, 263 and 280, the Wildlife and Fisheries Commission adopts an emergency rule as of January 1, 1993, amending and reenacting Title 76, Chapter 7, Section 701.

The text of this emergency rule can be viewed in its entirety in the September, 1992 *Louisiana Register*, pages 941-952.

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Red Snapper Closure

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

Effective 12:01 a.m. January 1, 1993 the commercial fishery for red snapper in Louisiana waters will remain closed until 12:01 a.m. February 16, 1993.

The commercial fishery for red snapper was closed by emergency action effective May 14, 1992. That action remained in effect until January 1, 1993, at which time the Gulf of Mexico Fishery Management Council was expected to reopen federal waters to the commercial harvest of red snapper. The council has since delayed the expected date for reopening federal waters until February 16, 1993. This notice is required to maintain a concurrent closure of state waters, as requested by the council. The secretary has been notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service that the season closure is necessary to prevent overfishing of this species.

Joe L. Herring
Secretary

RULES

RULE

Department of Economic Development Office of Financial Institutions

Exchange of Other Real Estate (LAC 10:I.Chapter 5)

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., and in accordance with R.S. 6:243(B)(5), the commissioner hereby adopts the following rule to implement the provisions of Act 798 of 1992 to provide for the exchange of other real estate.

The Wildlife and Fisheries Commission finds that imminent peril to the public welfare exists because the present rule is no longer completely valid because of recent legislative changes concerning the alligator program adopted with the recent signing into law of HB923, HB1314 and SB647, rulings of state courts, pending federal litigation and concerns of the U.S. Fish and Wildlife Service. These changes could drastically impact a thriving \$30 million Louisiana industry if action is not immediately taken. Implementation of the emergency rule will permit uninterrupted continuation of this valuable renewable natural resource program. The Wildlife and Fisheries Commission does hereby authorize and delegate to the secretary of the Department of Wildlife and Fisheries, the authority to take any and all necessary steps on behalf of the Commission to renew this emergency declaration if needed to ensure the final rule is promulgated, including but not limited to filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and preparation of reports and correspondence to other agencies of government.

Bert H. Jones
Chairman

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Bass Recovery

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and under the authority of R.S. 56:326.3, the Wildlife and Fisheries Commission, in order to ensure and accelerate the recovery of black bass (*Micropterus spp.*) in certain waters whose black bass populations were devastated as a result of Hurricane Andrew, do hereby enact the following emergency rule:

Effective January 30, 1993, it shall be unlawful to take or possess, while on the water or while fishing in the water, black bass less than 14 inches in total length in the area south of U.S. 190 from the West Atchafalaya Basin Protection Levee to the intersection of LA 1 and U.S. 190 due north of Port Allen, east of the West Atchafalaya Basin Protection Levee from U.S. 190 to U.S. 90, north of U.S. 90 from the West Atchafalaya Basin Protection Levee to LA 20, north and west of LA 20 from U.S. 90 to LA 1 in Thibodaux, south and west of LA 1 from LA 20 to U.S. 190.

Bert H. Jones
Chairman

Title 10
Banks and Savings and Loans
Part I. Banks

Chapter 5. Powers of Banks

Subchapter C. Exchange of Other Real Estate

§541. Authority and Purpose

A. This regulation is issued pursuant to the authority provided by R.S. 6:243(B)(5).

B. It is the purpose of this regulation to provide for those exceptions where a bank may exchange any property, lawfully acquired as provided by R.S. 6:243 A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:243(B)(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (January 1993).

§543. Definitions

For purposes of these regulations, the following terms shall have these meanings:

Commissioner—the Commissioner of Financial Institutions.

Exchanged Property—property lawfully acquired by a bank pursuant to R.S. 6:243(A) which is exchanged for property in compliance with this regulation.

Current Appraisal—an appraisal which has been obtained within 12 months prior to the exchange, provided there has been no significant change to the property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:243(B)(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (January 1993).

§545. Regulation

A. A bank, solely for the purpose of minimizing potential loss, may exchange property which is complex (including an undivided interest), difficult and/or uneconomical to maintain for property which is less complex, less difficult and/or more economical to maintain. This would include residential property exchanged for residential property of a lesser value.

1. Any such exchange must have prior approval of the bank's board of directors. The approval must be documented in the board minutes and contain the rationale to support the exchange.

2. The exchange must be supported by current appraisals of both the exchanged property and the property acquired in the exchange. Exchanged property with a book value greater than \$100,000 is required to have an appraisal in compliance with Part 323 of the Federal Deposit Insurance Corporations Rules and Regulation. Exchanged property with a book value of \$100,000 or less must have an appraisal performed by an independent appraiser with documentation on file sufficient to support the value given.

3. The bank must maintain on file for examiner review, supporting documentation of any exchange made since the previous examination, including the bank's marketing efforts to otherwise dispose of the exchanged property.

4. The 10-year divestiture period as required by R.S. 6:243(B)(1) shall begin on the original date of acquisition of the exchanged property, not the date of exchange. As allowed by R.S. 6:243(B)(2), a bank may choose to reduce the value of immovable property by at least one-tenth of the original book value each year that the property is held. If the bank has

chosen this option for the exchanged property, the property acquired from the exchange must be reduced by at least an equal rate each year to insure a zero balance at the end of the divestiture period.

5. The book value of the property acquired in the exchange can not exceed either the book value of the exchanged property or appraised value, whichever is less.

B. All requests for prior written approval of the commissioner must contain sufficient documentation to support the bank's request. Transactions requiring prior written approval of the commissioner include.

1. Transactions which directly or indirectly involve insiders, affiliates, or their related interests, as defined by Federal Reserve Board's Regulation O and Section 23 A of the Federal Reserve Act. A request for approval must include documentation to show the transaction is an arms-length transaction and will not violate state or federal laws, rules, or regulations.

2. Transactions which include any additional cash investment made by the bank to facilitate the exchange.

3. Transactions which include the exchange of other real estate for property which is not in the bank's normal trade area, as defined by the bank's board of directors policy.

C. Property exchanged in violation of this rule, in addition to any other actions authorized by law or regulation, result in the following:

1. a requirement that the bank remove the exchanged real estate from its books and the citation of a violation of R.S. 6:243 until such time as the bank disposes of the exchanged real estate;

2. a requirement that the directors directly responsible for exchange in violation of this rule may be required to purchase or otherwise dispose of the property and be responsible for any loss sustained by the bank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:243(B)(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (January 1993).

Larry L. Murray
Commissioner

RULE

Department of Economic Development
Office of Financial Institutions

Financing Other Real Estate (LAC 10.I.Chapter 5)

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., and in accordance with R.S. 6:415(7), the commissioner hereby adopts this rule to implement the provisions of Act 1129 of 1992 to provide for the financing of other real estate by banks.

Title 10
Banks and Savings and Loans
Part I. Banks

Chapter 5. Powers of Banks

Subchapter B. Real Estate Financing Legal Lending Limit Exception

§531. Authority and Purpose

A. This regulation is issued pursuant to the authority provided by §415(7) of Title 6 of the Louisiana Revised Statutes (R.S.).

B. It is the purpose of this regulation to provide a method by which a state bank may exceed lending limit restrictions, imposed by R.S. 6:415(A), when financing the sale of other real estate.

AUTHORITY NOTE: Promulgated in accordance with Act 1129 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (January 1993).

§533. Definitions

For purposes of these regulations, the following terms shall have these meanings:

Commissioner - the commissioner of Financial Institutions.

Directors, Executive Officers, and Principal Shareholders of the Originating Bank - persons so defined under the Federal Reserve Board's Regulation O, Title 12, Code of Federal Regulations, Section 215.2, and shall apply with respect to every director, executive officer, and principal shareholder of a non-member bank in the same manner and to the same extent as if the non-member bank were a member bank.

Lending Limit(s) - lending restrictions imposed by R.S. 6:415(A).

Other Real Estate - an identified parcel or tract of land with or without improvements, and including easements, rights of way, undivided or future interests, and any accessory rights or interests involving the associated parcel or tract of land. "Other real estate" shall include property acquired in accordance with R.S. 6:243(A).

State Bank or Bank - for purposes of this regulation "state bank" or "bank" means any corporation organized under the provisions of Chapter 3 of R.S., Title 6, as a state commercial bank.

AUTHORITY NOTE: Promulgated in accordance with Act 1129 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (January 1993).

§535. Regulation

A. Any state bank may provide financing to facilitate the sale of other real estate, in excess of lending limits as established in R.S. 6:415(A), provided prior written approval of the commissioner has been obtained and, subject to compliance with provisions of this regulation, the extension of credit will be in accordance with all other applicable state or federal laws.

B. Submission of requests for the commissioner's approval must be in writing. Requests must have the prior approval of, and be detailed in the minutes of a meeting held by, the bank's Board of Directors. Approved transactions shall apply only to purchase money mortgages taken by a state bank in

consideration for the sale of other real estate owned by the bank.

C. Approval of requests will be based on all relevant factors surrounding individual transactions; however, the following shall be required and will receive consideration.

1. A demonstration by the requesting bank that attempts to participate the proposed loan portion that is in excess of the bank's current lending limit have proven unsuccessful.

2. Copies of the original record of acquisition must be given. Should acquisition of other real estate have originated from a partnership or corporation, the state bank shall provide the names of the partnership or corporation principals.

3. Proposed transactions must be accompanied by documentation, which shall include accounting entries, indicating that the accounting treatment to be employed has been reviewed and approved by a certified public accountant for compliance with generally accepted accounting principles.

4. Other real estate to be used as supporting collateral for proposed transactions should be appraised, and copies of current appraisals (less than one year old) shall be submitted with each request. The buyer's anticipated use of the property must be indicated.

5. Before approval by the bank's directors, the bank shall have performed an appropriate credit analysis which shall indicate the potential borrower's ability to repay the extension of credit. A copy of the analysis shall be provided with each request, along with the bank's stated justification for engaging in the proposed transaction. The analysis must include a written summary of findings and disclose the names and financial information of the borrower(s) and any guarantor or endorser, as well as the terms of the proposed transaction. Directors, executive officers, and principal shareholders of the originating bank, and of other corporations, partnerships, associations, joint ventures, or other unincorporated entities, having related interests in the proposed extension of credit must be revealed. Previous business relationships with the potential borrower shall be disclosed, with a summary of the borrower's current and related debts, if any, given. All prior losses, renegotiations, or delinquencies related to the potential borrower must be shown.

6. The structure of any proposed transaction shall conform with prudent underwriting standards. Justification of all special terms and lending policy exceptions must be disclosed.

7. If other real estate proposed for sale has been marketed, the bank should provide information detailing how, and for how long, the property has been offered, including original and subsequent asking prices. Additional information should be given listing all offers received and details of subsequent counter-offers made. The bank must disclose if potential buyers have withdrawn offers. If offers were rejected by the bank, the bank shall provide its reasons for the rejection.

8. Changes in the book value and a history of the bank's expenses and income associated with the other real estate identified for sale must be provided.

9. Each bank shall be subject to requests for additional information, as needed, in order to facilitate an appropriate review of all transactions presented for the commissioner's approval.

D. Each request shall be accompanied by a non-refundable fee to be set by the commissioner.

E. This regulation shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with Act 1129 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (January 1993).

Larry L. Murray
Commissioner

RULE

Department of Economic Development Office of Financial Institutions

Lending Limit Exceptions (LAC 10:I:Chapter 5)

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., and in accordance with R.S. 6:415(A)(6), the commissioner hereby adopts the following rule to implement the provisions of Act 1129 of 1992 to provide for the acquisition of loan pools and loan participations by state-chartered banks.

Title 10 BANKS AND SAVINGS AND LOANS Part I. Banks

Chapter 5. Powers of Banks Subchapter D. Legal Lending Limit Exception - Acquisition of Loan Pools

§551. Authority and Purpose

This rule provides an exception to a state bank's legal lending limit based on the treatment of a loan pool acquisition under R.S. 6:415(A) (6).

AUTHORITY NOTE: Promulgated in accordance with Act 1129 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (January 1993).

§553. Definitions

Creditworthy—meeting established standards which are positive assessments of a borrower's ability to repay debt.

Executive Officer—an officer of the bank selected by the board of directors at the level of vice president or above possessing sufficient technical knowledge of and experience in the lending and collection functions of the bank.

Legal Lending Limit—the level of both direct and indirect extensions of credit that a bank may have outstanding at one time to any one individual borrower as established under R.S. 6:415.

Loan Pool—a group of individual loans that are packaged by the present owner for sale to another party.

Originating Officer—officer of the bank who initiates and/or is involved in negotiation for the bank's consideration of the purchase of a pool of loans.

Qualified Third Party—a person contracted by the bank who has prior experience in and technical knowledge of the lending

and collection functions of a bank and/or sufficient prior experience in credit analysis.

Recourse—the added protection that if a certain event or chain of events occurs, the seller will buy back or reimburse purchaser for loss sustained on those assets previously sold. May include a guaranty and/or reserve placed with bank by the seller.

Representative Portion—a sampling of loans included in the pool sufficient in dollar volume and/or number to reasonably assure the bank that the total package complies with all of the bank's internal underwriting guidelines.

AUTHORITY NOTE: Promulgated in accordance with Act 1129 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (January 1993).

§555. Review of Representative Portion

A. Designation of Person. The board of directors shall adopt a resolution in writing designating an executive officer of the bank or qualified third party to conduct a review of a representative portion of the pool of loans to determine that the individual borrowers appear creditworthy. If the board designates an officer of the bank to conduct the review, the person designated shall be someone other than the originating officer.

B. Documentation of Sample. The person designated by the board shall document the method by which the bank selected a representative portion of loans from the pool for review. The board shall document both its review of the method chosen and its reasons for acceptance of the method of selection.

C. Board Discussion of Initial Review. Prior to purchase, the board should discuss all aspects of the purchase, including the initial review of sampling of loans within the pool, agreements to be entered into between the bank and the seller, and any additional information that is necessary for the board to make a fully informed decision. This discussion shall be fully noted within the board minutes.

D. Loan Review. On each loan selected for review, the following information should be documented.

1. date of review;
2. borrower's name;
3. original loan amount;
4. present balance of the loan;
5. purpose of the loan;
6. description of collateral pledged, if applicable;
7. collateral value and how obtained;
8. holder of any prior liens and the balance of same, if applicable;
9. payment history of the loan, if applicable;
10. credit history of borrower;
11. any documentation exceptions;
12. any other information deemed necessary for the proper analysis of the credit.

Documentation exceptions noted during the review process shall be corrected prior to the purchase. The bank shall conduct its review of the individual loans for compliance with its own underwriting standards established within its loan policy and state its reasons for acceptance of those loans which do not meet these standards.

E. Compliance with Applicable Laws. The bank shall be responsible for reviewing appraisals to determine their compliance with State and Federal Statutes addressing appraisal standards for loans which are above a certain level established within these statutes and are secured by real estate. The bank shall maintain a copy of all such appraisals which document its review for compliance. On those applicable loans for which the appraisal does not meet the established standards, the bank shall take all steps necessary to bring it into compliance. In addition, the bank shall also be responsible for taking reasonable steps to ensure that all other applicable laws and regulations are being followed.

F. Agreements Between Seller and Bank. Any agreements to be entered into between the bank and the seller of the pool shall be reviewed by the bank's legal counsel to ensure that no unreasonable restrictions or undue risk is placed upon the bank. The agreement shall address the seller's liability for reimbursement to the bank in the event that records evidencing the bank's ownership rights are lost or misplaced.

G. Safekeeping of Records. Once the decision to purchase the loan pool is made, the bank shall take all steps necessary to ensure that notes for individual loans contained in the pool are properly identified as sold to the bank.

H. Retention of Initial Review. If the board approves and the bank purchases the pool, it shall maintain the initial review of the selected representative portion of the pool for inspection at subsequent regulatory examinations.

AUTHORITY NOTE: Promulgated in accordance with Act 1129 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (January 1993).

§557. Pool Treated as Individual Loans for Lending Limit Purposes

A. For treatment of the pool as individual loans for legal lending limit calculations, the bank must maintain an affidavit signed by the person or persons conducting the review and countersigned by the Board of Directors stating that:

1. a representative portion of the individual loans contained within the pool were reviewed to determine that the individual borrowers appear creditworthy; and

2. the bank is relying primarily on the individual maker's responsibility for payment of the loans.

Without the above affidavit, the pool will be deemed a direct borrowing of the seller for purposes of determining compliance with the bank's legal lending limit.

B. The bank shall maintain a listing of all loans included in the pool at the time of purchase.

C. On all payments received, the bank shall procure a breakdown of such payments by borrower name and the amount of payment applicable to principal and interest.

D. Delinquent Loans

1. The bank shall obtain a monthly listing of all loans in which payments are overdue and shall report those loans overdue 30 days or more in its overdue loan calculations.

2. The bank shall obtain a monthly listing of all loans contractually requiring monthly payments of principal and interest which are currently paying interest only. These loans should also be reflected in the bank's overdue calculations based on their amortization schedule.

3. The bank shall obtain a quarterly status report,

corresponding with call report dates, on all loans in process of foreclosure along with collection efforts being made on those loans which are delinquent but not in the process of foreclosure.

4. The bank shall obtain a quarterly status report, corresponding with call report dates, on any collateral seized through foreclosure.

E. Loan Loss Reserve Analysis. Although the pool may have a partial recourse endorsement and/or guarantee of the seller, the bank shall assess risk and provide for such risk on an individual loan basis in its loan loss reserve analysis.

F. Subsequent Reviews. At least semi-annually, the bank shall conduct subsequent reviews of a portion of the loans within the pool to ensure that all information being provided by the servicer of the pool is substantially correct. Subsequent reviews should also be conducted by someone other than the originating officer. Documentation of subsequent reviews should be maintained by the bank for review at subsequent examinations.

G. Reporting of Pools. These pools shall be reported in accordance with the Federal Financial Institutions Examinations Council's Instructions for Consolidated Reports of Condition and Income (Call Report Instructions). The treatment of a pool as individual loans is only for purposes of assessing the bank's compliance with its legal lending limit.

AUTHORITY NOTE: Promulgated in accordance with Act 1129 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (January 1993).

§559. Other

A. Although the pool may be considered as individual loans for legal lending limit purposes, the bank shall also review the financial condition of the seller on a regular basis, including condition at purchase date, on those agreements where full or partial recourse exists.

B. The bank shall take steps to ensure its compliance with the above criteria and maintain separately the necessary documentation of such for each pool being considered for purchase.

C. Effective Date. This rule shall become effective upon publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with Act 1129 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (January 1993).

Larry L. Murray
Commissioner

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Assistance Plan Billing Procedures

The Student Financial Assistance Commission, Office of Student Financial Assistance, hereby amends the Scholarship/Grant Policy and Procedure Manual, Chapter VI, Subparagraph E (3) b, as follows:

E. (3) b. Institutions will bill LASFAC based on their certification of new students' first time, full-time enrollment, renewal students' full-time enrollment and renewal students enrolled less than full time who will graduate in the same term as of the fourteenth class day (ninth class day for Louisiana Tech). Institutions are not to bill LASFAC for students who are enrolled less than full time on the fourteenth class day unless the student will graduate in the same term. In such cases, the students are responsible for reimbursing the institutions for any monies owed. Refunds for less than full-time enrollment after the fourteenth class day are to be retained by the institution.

Jack Guinn
Executive Director

RULE

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

**Benzene Emissions from Benzene Storage Tanks (AQ35)
(LAC 33:III.5143)**

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2054 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality regulations, LAC 33:III.5143, (AQ35).

This rule is identical to 40 CFR 61, Subpart Y, with changes to the outline and internal references to correspond to the Louisiana Administrative Code (LAC). The rule does not deviate from the CFR except for the above references format. The rule establishes standards for the control of benzene emissions from benzene storage vessels.

These regulations are effective on January 20, 1993, or upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter J. Benzene

§5143. Emission Standard for Benzene Emissions from Benzene Storage Vessels (Subpart Y)

A. Applicability and Designation of Sources

1. The source to which this Section applies is each storage vessel that is storing benzene having a specific gravity within the range of specific gravities specified for Industrial Grade Benzene, for Refined Benzene-485, for Refined Benzene-535, and for Refined Benzene-545.

2. Except for Subsection H.2 of this Section, storage vessels with a design storage capacity less than 38 cubic meters (10,000 gallons) are exempt from the provisions of this Section.

3. This Section does not apply to storage vessels used for storing benzene at coke by-product facilities.

4. This Section does not apply to storage vessels permanently attached to motor vehicles such as trucks, rail cars, barges, or ships.

5. This Section does not apply to pressurized storage vessels designed to operate in excess of 204.9 kPa and without emissions to the atmosphere.

6. A designated source subject to the provisions of this Section that is also subject to applicable provisions of LAC 33:III. Chapter 31. Subchapter K shall be required to comply only with the section that contains the most stringent requirements for that source.

B. Definitions. All terms in this Section are used as defined in LAC 33:III.111 except for those terms specifically defined herein as follows:

Industrial Grade Benzene—any benzene meeting the ASTM D836-84 standard.

Refined Benzene-485—any benzene meeting the ASTM D835-85 standard.

Refined Benzene-535—any benzene meeting the ASTM D2359-85a standard.

Refined Benzene-545—any benzene meeting the ASTM 4734-87 standard.

C. Emission Standard. The owner or operator of each storage vessel with a design storage capacity greater than or equal to 38 cubic meters (10,000 gallons) to which this Section applies shall comply with the requirements in Subsection C.4 of this Section, and shall also comply with the requirements either in Subsection C.1, 2 or 3 of this Section, or equivalent as provided in Subsection E of this Section.

1. The storage vessel shall be equipped with a fixed roof and an internal floating roof.

a. An internal floating roof means a cover that rests on the liquid surface (but not necessarily in complete contact with it) inside a storage vessel that has a permanently affixed roof. The internal floating roof shall be floating on the liquid surface at all times, except during initial fill and during those intervals when the storage vessel is empty or subsequently emptied and refilled. When the roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible.

b. Each internal floating roof shall be equipped with one of the closure devices listed in Subsection C.1.b.i, ii, or iii of this Section between the wall of the storage vessel and the edge of the internal floating roof. This requirement does not apply to each existing storage vessel for which construction of an internal floating roof equipped with a continuous seal commenced on or before July 28, 1988. A continuous seal means a seal that forms a continuous closure that completely covers the space between the wall of the storage vessel and the edge of the internal floating roof:

i. a liquid-mounted seal (a foam- or liquid-filled seal) mounted in contact with the liquid between the wall of the storage vessel and the floating roof which forms a continuous seal around the circumference of the storage vessel;

ii. two seals mounted one above the other so that each forms a continuous closure that completely covers the space between the wall of the storage vessel and the edge of the

internal floating roof. The lower seal may be vapor-mounted, but both must form continuous seals;

iii. a metallic shoe seal (also referred to as a mechanical shoe seal) which is, but is not limited to, a metal sheet held vertically against the wall of the storage vessel by springs or weighted levers and is connected by braces to the floating roof and forms a continuous seal around the circumference of the storage vessel. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof and forms a continuous seal around the circumference of the storage vessel.

c. Automatic bleeder vents are to be closed at all times when the roof is floating, except when the roof is being floated off or is being landed on the roof leg supports.

d. Each opening in a noncontact internal floating roof except for automatic bleeder vents (vacuum breaker vents) and the rim space vents is to provide a projection below the liquid surface.

e. Each internal floating roof shall meet the specifications listed below. If an existing storage vessel had an internal floating roof with a continuous seal as of July 28, 1988, the requirements listed below do not have to be met until the first time after September 14, 1989, the storage vessel is emptied and degassed or September 14, 1999, whichever occurs first.

i. Each opening in the internal floating roof except for leg sleeves, automatic bleeder vents, rim space vents, column wells, ladder wells, sample wells, and stub drains is to be equipped with a cover or lid. The cover or lid shall be equipped with a gasket. Covers on each access hatch and automatic gauge float well shall be bolted.

ii. Each penetration of the internal floating roof for the purposes of sampling shall be a sample well. Each sample well shall have a slit fabric cover that covers at least 90 percent of the opening.

iii. Each automatic bleeder vent shall be gasketed.

iv. Rim space vents shall be equipped with a gasket.

v. Each penetration of the internal floating roof that allows for passage of a ladder shall have a gasketed sliding cover.

vi. Each penetration of the internal floating roof that allows for passage of a column supporting the fixed roof shall have a flexible fabric sleeve seal or a gasketed sliding cover.

f. Each cover or lid on any opening in the internal floating roof shall be closed (i.e., no visible gaps), except when a device is in actual use. Covers on each access hatch and each automatic gauge float well which are equipped with bolts shall be bolted when they are not in use. Rim space vents are to be set to open only when the internal floating roof is not floating or at the manufacturer's recommended setting.

2. The storage vessel shall have an external floating roof.

a. An external floating roof means a pontoon-type or double-deck-type cover that rests on the liquid surface in a storage vessel with no fixed roof.

b. Each external floating roof shall be equipped with a closure device between the wall of the storage vessel and the roof edge. Except as provided in Subsection C.2.e of this Section, the closure device is to consist of two seals, one above the other. The lower seal is referred to as the primary seal and

the upper seal is referred to as the secondary seal.

i. The primary seal shall be either a metallic shoe seal or a liquid-mounted seal. A liquid-mounted seal means a foam- or liquid-filled seal mounted in contact with the liquid between the wall of the storage vessel and the floating roof continuously around the circumference of the storage vessel. A metallic shoe seal (which can also be referred to as a mechanical shoe seal) is, but is not limited to, a metal sheet held vertically against the wall of the storage vessel by springs or weighted levers and is connected by braces to the floating roof. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof. Except as provided in Subsection D.2.d of this Section, the primary seal shall completely cover the annular space between the edge of the floating roof and the storage vessel wall.

ii. The secondary seal shall completely cover the annular space between the external floating roof and the wall of the storage vessel and form a continuous seal around the circumference, except as allowed in Subsection D.2.d of this Section.

c. Except for automatic bleeder vents and rim space vents, each opening in the noncontact external floating roof shall provide a projection below the liquid surface. Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof is to be equipped with a gasketed cover, seal or lid which is to be maintained in a closed position at all times (i.e., no visible gap) except when the device is in actual use. Automatic bleeder vents are to be closed at all times when the roof is floating, except when the roof is being floated off or is being landed on the roof leg supports. Rim vents are to be set to open when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting. Automatic bleeder vents and rim space vents are to be gasketed. Each emergency roof drain is to be provided with a slotted membrane fabric cover that covers at least 90 percent of the area of the opening.

d. The roof shall be floating on the liquid at all times (i.e., off the roof leg supports) except during initial fill until the roof is lifted off leg supports and when the storage vessel is completely emptied and subsequently refilled. The process of emptying and refilling when the roof is resting on the leg supports shall be continuous and shall be accomplished as rapidly as possible.

e. The requirement for a secondary seal does not apply to each existing storage vessel that was equipped with a liquid-mounted primary seal as of July 28, 1988, until after the first time after September 14, 1989, when the storage vessel is emptied and degassed or 10 years from September 14, 1989, whichever occurs first.

3. The storage vessel shall be equipped with a closed-vent system and a control device.

a. The closed-vent system shall be designed to collect all benzene vapors and gases discharged from the storage vessel and operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background and visual inspections, as determined in LAC 33:III.5171.M.

b. The control device shall be designed and operated to reduce inlet benzene emissions by 95 percent or greater. If a flare is used as the control device, it shall meet the

specifications described in the general control device requirements of LAC 33:III.5171.M.4.

c. The specifications and requirements listed in Subsection C.3.a and b of this Section for closed-vent systems and control devices do not apply during periods of routine maintenance. During periods of routine maintenance, the benzene level in the storage vessel(s) serviced by the control device subject to the provisions of Subsection C.3 of this Section may be lowered but not raised. Periods of routine maintenance shall not exceed 72 hours as outlined in the maintenance plan required by Subsection D.3.a.iii of this Section.

d. The specifications and requirements listed in Subsection C.3.a and b of this Section for closed-vent systems and control devices do not apply during a control system malfunction. A control system malfunction means any sudden and unavoidable failure of air pollution control equipment. A failure caused entirely or in part by design deficiencies, poor maintenance, careless operation, or other preventable upset condition or equipment breakdown is not considered a malfunction.

4. The owner or operator of each affected storage vessel shall meet the requirements of Subsection C.1, 2, or 3 of this Section as follows.

a. The owner or operator of each existing benzene storage vessel which construction commenced before July 28, 1988, shall meet the requirements of Subsection C.1, 2, or 3 of this Section no later than 90 days after September 14, 1989, with the exceptions noted in Subsection C.1.e and 2.e of this Section, unless a waiver of compliance has been approved by the administrative authority in accordance with LAC 33:III.5109.F and G.

b. The owner or operator of each benzene storage vessel upon which construction commenced after September 14, 1989, shall meet the requirements of Subsection C.1, 2, or 3 of this Section prior to filling (i.e., roof is lifted off leg supports) the storage vessel with benzene.

c. The owner or operator of each benzene storage vessel upon which construction commenced on or after July 28, 1988, and before September 14, 1989, shall meet the requirements of Subsection C.1, 2, or 3 of this Section on September 14, 1989.

D. Compliance Provisions

1. For each storage vessel complying with Subsection C.1 of this Section (fixed roof and internal floating roof) each owner or operator shall:

a. after installing the control equipment required to comply with Subsection C.1 of this Section, visually inspect the internal floating roof, the primary seal, and the secondary seal (if one is in service), prior to filling the storage vessel with benzene. If there are holes, tears or other openings in the primary seal, the secondary seal, or the seal fabric, or defects in the internal floating roof, the owner or operator shall repair the items before filling the storage vessel.

b. visually inspect the internal floating roof and the primary seal or the secondary seal (if one is in service) through manholes and roof hatches on the fixed roof at least once every 12 months after initial fill, or at least once every 12 months after September 14, 1989, except as provided in Subsection D.1.d.i of this Section. If the internal floating roof is not

resting on the surface of the benzene liquid inside the storage vessel, or there is liquid on the roof, or the seal is detached, or there are holes or tears in the seal fabric, the owner or operator shall repair the items or empty and remove the storage vessel from service within 45 days. If a failure that is detected during inspections required in this Paragraph cannot be repaired within 45 days and if the storage vessel cannot be emptied within 45 days, an extension of up to 30 additional days may be requested from the administrative authority in the inspection report required in Subsection G.1 of this Section. Such a request for an extension must document that alternate storage capacity is unavailable and specify a schedule of actions the company will take that will ensure that the control equipment will be repaired or the storage vessel will be emptied as soon as possible.

c. Visually inspect the internal floating roof, the primary seal, the secondary seal (if one is in service), gaskets, slotted membranes and sleeve seals (if any) each time the storage vessel is emptied and degassed. In no event shall inspections conducted in accordance with this provision occur at intervals greater than 10 years in the case of storage vessels conducting the annual visual inspections as specified in Subsection D.1.b of this Section and at intervals greater than five years in the case of storage vessels specified in Subsection D.1.d.i of this Section.

i. For all the inspections required by Subsection D.1.a and c of this Section, the owner or operator shall notify the administrative authority in writing at least 30 days prior to the refilling of each storage vessel to afford the administrative authority the opportunity to have an observer present. If the inspection required by Subsection D.1.c of this Section is not planned and the owner or operator could not have known about the inspection 30 days in advance of refilling the storage vessel, the owner or operator shall notify the administrative authority at least seven days prior to the refilling of the storage vessel. Notification shall be made by telephone immediately followed by written documentation demonstrating why the inspection was unplanned. Alternatively, the notification including the written documentation may be made in writing and sent by express mail so that it is received by the administrative authority at least seven days prior to refilling.

ii. If the internal floating roof has defects, the primary seal has holes, tears, or other openings in the seal or the seal fabric, or the secondary seal has holes, tears, or other openings in the seal fabric, or the gaskets no longer close off the liquid surfaces from the atmosphere, or the slotted membrane has more than 10 percent open area, the owner or operator shall repair the items as necessary so that none of the conditions specified in this Paragraph exist before refilling the storage vessel with benzene.

d. For storage vessels equipped with a double-seal system as specified in Subsection C.1.b.ii of this Section:

i. visually inspect the storage vessel as specified in Subsection D.1.c of this Section at least every five years; or

ii. visually inspect the storage vessel annually as specified in Subsection D.1.b of this Section, and at least every 10 years as specified in Subsection D.1.c of this Section.

2. For each storage vessel complying with Subsection C.2 of this Section (external floating roof) the owner or operator shall:

a. Determine the gap areas and maximum gap widths between the primary seal and the wall of the storage vessel, and the secondary seal and the wall of the storage vessel according to the following frequency:

i. For an external floating roof storage vessel equipped with primary and secondary seals, measurements of gaps between the storage vessel wall and the primary seal (seal gaps) shall be performed during the hydrostatic testing of the storage vessel or within 90 days of the initial fill with benzene or within 90 days of September 14, 1989, whichever occurs last, and at least once every five years thereafter, except as provided in Subsection D.2.a.ii of this Section.

ii. For an external floating roof storage vessel equipped with a liquid-mounted primary seal and without a secondary seal as provided for in Subsection C.2.e of this Section, measurement of gaps between the storage vessel wall and the primary seal (seal gaps) shall be performed within 90 days of September 14, 1989, and at least once per year thereafter. When a secondary seal is installed over the primary seal, measurement of primary seal gaps shall be performed within 90 days of installation and at least once every five years thereafter.

iii. For an external floating roof storage vessel equipped with primary and secondary seals, measurements of gaps between the storage vessel wall and the secondary seal shall be performed within 90 days of the initial fill with benzene, within 90 days of installation of the secondary seal, or within 90 days after September 14, 1989, whichever occurs last, and at least once per year thereafter.

iv. If any source ceases to store benzene for a period of one year or more, subsequent introduction of benzene into the storage vessel shall be considered an initial fill for the purposes of Subsection D.2.a.i, ii, and iii of this Section.

b. Determine gap widths and areas in the primary and secondary seals individually by the following procedures.

i. Measure seal gaps, if any, at one or more floating roof levels when the roof is floating off the roof leg supports.

ii. Measure seal gaps around the entire circumference of the storage vessel in each place where a 0.32 centimeter (cm) (1/8 in) diameter uniform probe passes freely (without forcing or binding against the seal) between the seal and the wall of the storage vessel and measure the circumferential distance of each such location.

iii. The total surface area of each gap described in Subsection D.2.b.ii of this Section shall be determined by using probes of various widths to measure accurately the actual distance from the storage vessel wall to the seal and multiplying each such width by its respective circumferential distance.

c. Add the gap surface area of each gap location for the primary seal and the secondary seal individually. Divide the sum for each seal by the nominal diameter of the storage vessel and compare each ratio to the respective standards in Subsection D.2.d and e of this Section.

d. Repair conditions that do not meet requirements listed in Subsection D.2.d.i and ii of this Section within 45 days of identification in any inspection or empty and remove the storage vessel from service within 45 days.

i. The accumulated area of gaps between the storage vessel wall and the metallic shoe seal or the liquid-mounted

primary seal shall not exceed 212 cm² per meter of storage vessel diameter (10.0 in² per foot of storage vessel diameter) and the width of any portion of any gap shall not exceed 3.81 cm (1 1/2 in).

(a). One end of the metallic shoe is to extend into the stored liquid and the other end is to extend a minimum vertical distance of 61 cm (24 in) above the stored liquid surface.

(b). There are to be no holes, tears, or other openings in the shoe, seal fabric, or seal envelope.

ii. The secondary seal is to meet the following requirements.

(a). The secondary seal is to be installed above the primary seal so that it completely covers the space between the roof edge and the storage vessel wall except as provided in Subsection D.2.d.ii.(b) of this Section.

(b). The accumulated area of gaps between the storage vessel wall and the secondary seal shall not exceed 21.2 cm² per meter of storage vessel diameter (1.0 in² per foot of storage vessel diameter) or the width of any portion of any gap shall not exceed 1.27 cm (1/2 in). These seal gap requirements may be exceeded during the measurement of primary seal gaps as required by Subsection D.2.a.i or ii of this Section.

(c). There are to be no holes, tears, or other openings in the seal or seal fabric.

iii. If a failure that is detected during inspections required in this Paragraph cannot be repaired within 45 days and if the storage vessel cannot be emptied within 45 days, an extension of up to 30 additional days may be requested from the administrative authority in the inspection report required in Subsection G.4 of this Section. Such extension request must include a demonstration of unavailability of alternate storage capacity and a specification of a schedule that will assure that the control equipment will be repaired or the storage vessel will be emptied as soon as possible.

e. The owner or operator shall notify the administrative authority 30 days in advance of any gap measurements required by Subsection D.2.a of this Section to afford the administrative authority the opportunity to have an observer present.

f. Visually inspect the external floating roof, the primary seal, secondary seal, and fittings each time the storage vessel is emptied and degassed.

i. If the external floating roof has defects, the primary seal has holes, tears, or other openings in the seal or the seal fabric, or the secondary seal has holes, tears, or other openings in the seal or the seal fabric, the owner or operator shall repair the items as necessary so that none of the conditions specified in this Paragraph exist before filling or refilling the storage vessel with benzene.

ii. For all the inspections required by Subsection D.2.f of this Section, the owner or operator shall notify the administrative authority in writing at least 30 days prior to filling or refilling of each storage vessel to afford the administrative authority the opportunity to inspect the storage vessel prior to refilling. If the inspection required by Subsection D.2.f of this Section is not planned and the owner or operator could not have known about the inspection 30 days in advance of refilling the storage vessel, the owner or operator shall notify the administrative authority at least seven days prior to refilling

of the storage vessel. Notification shall be made by telephone immediately followed by written documentation demonstrating why the inspection was unplanned. Alternatively, this notification including the written documentation may be made in writing and sent by express mail so that it is received by the administrative authority at least seven days prior to the refilling.

3. The owner or operator of each source that is equipped with a closed-vent system and control device as required in Subsection C.3 of this Section, other than a flare, shall meet the following requirements.

a. Within 90 days after initial fill or after September 14, 1989, whichever comes last, submit for approval by the administrative authority, an operating plan containing the information listed below.

i. Documentation demonstrating that the control device being used achieves the required control efficiency during reasonably expected maximum loading conditions. This documentation is to include a description of the gas stream which enters the control device, including flow and benzene content under varying liquid level conditions (dynamic and static) and manufacturer's design specifications for the control device. If the control device or the closed-vent capture system receives vapors, gases or liquids, other than fuels, from sources that are not designated sources under this Section, the efficiency demonstration is to include consideration of all vapors, gases and liquids received by the closed-vent capture system and control device. If an enclosed combustion device with a minimum residence time of 0.75 seconds and a minimum temperature of 816°C is used to meet the 95 percent requirement, documentation that those conditions exist is sufficient to meet the requirements of this Paragraph.

ii. A description of the parameter or parameters to be monitored to ensure that the control device is operated and maintained in conformance with its design and an explanation of the criteria used for selection of that parameter (or parameters).

iii. A maintenance plan for the system including the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods for those operations that would require the closed-vent system or the control device to be out of compliance with Subsection C.3 of this Section. The maintenance plan shall require that the system be out of compliance with Subsection C.3 of this Section for no more than 72 hours per year.

b. Operate, monitor the parameters, and maintain the closed-vent system and control device in accordance with the operating plan submitted to the administrative authority in accordance with Subsection D.3.a of this Section, unless the plan was modified by the administrative authority during the approval process. In this case, the modified plan applies.

4. The owner or operator of each source that is equipped with a closed-vent system and a flare to meet the requirements of Subsection C.3 of this Section shall meet the requirements as specified in the general control device requirements in LAC 33:III.5171.M.

E. Alternative Means of Emission Limitation

1. Upon written application from any person, the administrative authority may approve the use of alternative means of emission limitation which have been demonstrated to the satisfaction of the administrative authority to achieve a

reduction in benzene emissions at least equivalent to the reduction in emissions achieved by any requirement in Subsection C.1, 2, or 3 of this Section.

2. Determination of equivalence to the reduction in emissions achieved by the requirements of Subsection C.1, 2, or 3 of this Section will be evaluated using the following information to be included in the written application to the administrative authority:

a. actual emissions tests that use full-size or scale-model storage vessels that accurately collect and measure all benzene emissions from a given control device, and that accurately simulate wind and account for other emission variables such as temperature and barometric pressure;

b. an engineering evaluation that the administrative authority determines is an accurate method of determining equivalence.

3. The administrative authority may condition approval of equivalency on requirements that may be necessary to ensure operation and maintenance to achieve the same emission reduction as the requirements of Subsection C.1, 2, or 3 of this Section.

4. If, in the administrative authority's judgment, an application for equivalence may be approvable, the administrative authority will publish a notice of preliminary determination in the *Louisiana Register* and provide the opportunity for public hearing. After notice and opportunity for public hearing, the administrative authority will determine the equivalence of the alternative means of emission limitation and will publish the final determination in the *Louisiana Register*.

F. Initial Report

1. The owner or operator of each storage vessel to which this Section applies and which has a design capacity greater than or equal to 38 cubic meters (10,000 gallons) shall submit an initial report describing the controls which will be applied to meet the equipment requirements in Subsection C of this Section. For an existing storage vessel or a new storage vessel for which construction and operation commenced prior to September 14, 1989, this report shall be submitted within 90 days of September 14, 1989, and can be combined with the report required by LAC 33:III.5107. For a new storage vessel for which construction or operation commenced on or after September 14, 1989, the report shall be combined with the report required by LAC 33:III.5111 and 5115. In the case where the owner or operator seeks to comply with Subsection C.3 of this Section with a control device other than a flare, this information may consist of the information required by Subsection C.3.a of this Section.

2. The owner or operator of each storage vessel seeking to comply with Subsection C.3 of this Section with a flare, shall submit a report containing the measurements required by LAC 33:III.5171.S. For the owner or operator of an existing storage vessel not seeking to obtain a waiver or a new storage vessel for which construction and operation commenced prior to September 14, 1989, this report shall be combined with the report required by Subsection F.1 of this Section. For the owner or operator of an existing storage vessel seeking to obtain a waiver, the reporting date will be established in the response to the waiver request. For the owner or operator of a new storage vessel for which construction or operation commenced after September 14,

1989, the report shall be submitted within 90 days of the date the storage vessel is initially filled (or partially filled) with benzene.

G. Periodic Report

1. The owner or operator of each storage vessel to which this Section applies after installing control equipment in accordance with Subsection C.1 of this Section (fixed roof and internal floating roof) shall submit a report describing the results of each inspection conducted in accordance with Subsection D.1 of this Section. For storage vessels for which annual inspections are required under Subsection D.1.b of this Section, the first report is to be submitted no more than 12 months after the initial report submitted in accordance with Subsection F of this Section, and each report is to be submitted within 60 days of each annual inspection.

a. Each report shall include the date of the inspection of each storage vessel and identify each storage vessel in which:

i. the internal floating roof is not resting on the surface of the benzene liquid inside the storage vessel, or there is liquid on the roof, or the seal is detached from the internal floating roof, or there are holes, tears or other openings in the seal or seal fabric; or

ii. there are visible gaps between the seal and the wall of the storage vessel.

b. Where an annual report identifies any condition in Subsection G.1.a of this Section the annual report shall describe the nature of the defect, the date the storage vessel was emptied, and the nature of and date the repair was made, except as provided in Subsection G.1.c of this Section.

c. If an extension is requested in an annual periodic report in accordance with Subsection D.1.b of this Section, a supplemental periodic report shall be submitted within 15 days of repair. The supplemental periodic report shall identify the storage vessel and describe the date the storage vessel was emptied and the nature of and date the repair was made.

2. The owner or operator of each storage vessel to which this Section applies after installing control equipment in accordance with Subsection C.1 of this Section (fixed roof and internal floating roof) shall submit a report describing the results of each inspection conducted in accordance with Subsection D.1.c or d of this Section.

a. The report is to be submitted within 60 days of conducting each inspection required by Subsection D.1.c or d of this Section.

b. Each report shall identify each storage vessel in which the owner or operator finds that the internal floating roof has defects, the primary seal has holes, tears, or other openings in the seal or the seal fabric, or the secondary seal (if one has been installed) has holes, tears, or other openings in the seal or seal fabric, or the gaskets no longer close off the liquid surfaces from the atmosphere, or the slotted membrane has more than 10 percent open area. The report shall also describe the nature of the defect, the date the storage vessel was emptied, and the nature of and date the repair was made.

3. Any owner or operator of an existing storage vessel which had an internal floating roof with a continuous seal as of July 28, 1988, and which seeks to comply with the requirements of Subsection C.1.e of this Section during the first time after September 14, 1989, when the storage vessel is emptied and

degassed but no later than 10 years from September 14, 1989, shall notify the administrative authority 30 days prior to the completion of the installation of such controls and the date of refilling of the storage vessel so the administrative authority has an opportunity to have an observer present to inspect the storage vessel before it is refilled. This report can be combined with the one required by Subsection G.2 of this Section.

4. The owner or operator of each storage vessel to which this Section applies after installing control equipment in accordance with Subsection C.2 of this Section (external floating roof) shall submit a report describing the results of each seal gap measurement made in accordance with Subsection D.2 of this Section. The first report is to be submitted no more than 12 months after the initial report submitted in accordance with Subsection F.1 of this Section, and each annual periodic report is to be submitted within 60 days of each annual inspection.

a. Each report shall include the date of the measurement, the raw data obtained in the measurement, and the calculations described in Subsection D.2.b and c of this Section, and shall identify each storage vessel which does not meet the gap specifications of Subsection D.2 of this Section. Where an annual report identifies any storage vessel not meeting the seal gap specifications of Subsection D.2 of this Section the report shall describe the date the storage vessel was emptied, the measures used to correct the condition and the date the storage vessel was brought into compliance.

b. If an extension is requested in an annual periodic report in accordance with Subsection D.2.d.iii of this Section, a supplemental periodic report shall be submitted within 15 days of repair. The supplemental periodic report shall identify the storage vessel and describe the date the storage vessel was emptied and the nature of and date the repair was made.

5. Excess Emission Report

a. The owner or operator of each source seeking to comply with Subsection C.3 of this Section (vessels equipped with closed-vent systems with control devices) shall submit a quarterly report informing the administrative authority of each occurrence that results in excess emissions. Excess emissions are emissions that occur at any time when compliance with the specifications and requirements of Subsection C.3 of this Section are not achieved, as evidenced by the parameters being measured in accordance with Subsection D.3.a.ii of this Section if a control device other than a flare is used, or by the measurements required in Subsection D.4 of this Section and the general control device requirements in LAC 33:III.3131.B.4.a and b if a flare is used.

b. The owner or operator shall submit the following information as a minimum in the report required by Subsection G.5.a of this Section:

i. identify the stack and other emission points where the excess emissions occurred;

ii. a statement of whether or not the owner or operator believes a control system malfunction has occurred.

c. If the owner or operator states that a control system malfunction has occurred, the following information as a minimum is also to be included in the report required under Subsection G.5.a of this Section:

i. time and duration of the control system malfunction as determined by continuous monitoring data (if

any), or the inspections or monitoring done in accordance with the operating plan required by Subsection D.3 of this Section;
ii. cause of excess emissions.

H. Recordkeeping

1. Each owner or operator with a storage vessel subject to this Section shall keep copies of all the reports and records required by this Section at the facility for at least three years and be able to produce them, except as specified in Subsection H.2 and 3.a of this Section.

2. Each owner or operator with a storage vessel, including any storage vessel which has a design storage capacity less than 38 cubic meters (10,000 gallons), shall keep readily accessible records showing the dimensions of the storage vessel and an analysis showing the capacity of the storage vessel. This record shall be kept as long as the storage vessel is in operation. Each storage vessel with a design capacity of less than 38 cubic meters (10,000 gallons) is subject to no provisions of this Section other than those required by this Paragraph.

3. The following information pertaining to closed-vent system and control devices shall be kept in a readily accessible location:

a. a copy of the operating plan. This record shall be kept as long as the closed-vent system and control device is in use;

b. a record of the measured values of the parameters monitored in accordance with Subsection D.3.a.ii and b of this Section;

c. a record of the maintenance performed in accordance with Subsection D.3.a.iii of this Section of the operating plan, including the following:

i. the duration of each time the closed-vent system and control device does not meet the specifications of Subsection C.3 of this Section due to maintenance, including the following:

(a). the first time of day and date the requirements of Subsection C.3 of this Section were not met at the beginning of maintenance;

(b). the first time of day and date the requirements of Subsection C.3 of this Section were met at the conclusion of maintenance;

(c). a continuous record of the liquid level in each storage vessel that the closed-vent system and control device receive vapors from during the interval between the times specified by Subsection H.3.c.i.(a) and (b) of this Section. Pumping records (simultaneous input and output) may be substituted for records of the liquid level.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19: (January 1993).

James B. Thompson, III
Assistant Secretary

RULE

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

Toxic Air Pollutants (AQ62) (LAC 33:III.Chapter 51)

(Editor's Note: A portion of the following rule, which appeared on pages 1362 through 1375 of the December 20, 1992 *Louisiana Register*, is being republished to correct a typographical error.)

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

* * *

§5115. Modification of NESHAP Sources

* * *

Table 51.3 LOUISIANA TOXIC AIR POLLUTANTS SUPPLEMENTAL

* * *

EXPLANATORY NOTES:

[3] Excludes those glycol ethers listed in Table 51.2. Those glycol ethers listed in Table 51.2 are subject to all provisions of this Subchapter. Includes any other mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol R(OCH₂CH₂)_n-OR' where

n = 1,2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure:

R(OCH₂CH)_n-OH. Polymers are excluded from the glycol category.

* * *

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 17:1204 (December 1991), amended LR 18:1374 (December 1992), repromulgated LR 19: (January 1993).

James B. Thompson, III
Assistant Secretary

RULE

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

Vapor Recovery Systems (AQ61) (LAC 33:III.2132)

(Editor's Note: A portion of the following rule, which appeared on pages 1254 through 1256 of the November 20, 1992 *Louisiana Register*, is being republished to correct typographical errors.)

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds §2132. Stage II Vapor Recovery Systems for Control of Vehicle Refuelling Emissions of Gasoline Dispensing Facilities

* * *

B. Regulated Sector

* * *

5. No owner or operator as described in Subsection B.1, 2 and 3 of this Section shall cause or allow the dispensing of motor vehicle fuel at any time unless all fuel dispensing operations are equipped with and utilize a certified vapor recovery system which is properly installed and operated within guidelines of the National Fire Protection Association (NFPA) 30. The vapor recovery equipment utilized shall be certified by the California Air Resources Board (CARB) or equivalent certification authority approved by the administrative authority* to attain a minimum of 95 percent gasoline vapor control efficiency. This certified equipment shall have coaxial hoses and shall not contain remote check valves. In addition, only CARB or equivalent approved aftermarket parts and CARB or equivalent approved rebuilt parts shall be used for installation or replacement use.

D. Testing, Labeling and Recordkeeping

1.a. - d. ...

i. absence or disconnection of any component required to be used on a certified or equivalent system;

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:1254 (November 1992), repromulgated LR 19: (January 1993).

James B. Thompson, III
Assistant Secretary

RULE

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Continuing Education (LAC 46:LXIII.Chapter 8)

The Board of Examiners of Psychologists, pursuant to the authority vested in the board by R.S. 37:2357, et seq., and in accordance with the applicable provision of the Administrative Procedure Act, amends its continuing education rule as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Chapter 8. Continuing Education

§801. Preface

Pursuant to R.S. 37:2357.B, each licensed psychologist is

required to complete 30 clock hours, of acceptable continuing education within biennial reporting periods. The continuing education requirements of psychologists are designed to promote their continued familiarization with new developments within the profession. Continuing education offerings shall be at the graduate or post graduate level in terms of content, quality, organization, and presentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:769 (September 1990), amended LR 19: (January 1993).

§803. Requirements

A. Each psychologist is required to complete 30 clock hours of continuing education within the biennial reporting period.

B. Two of the above 30 clock hours must be within the area of ethics and/or forensic issues.

C. Licensees can accumulate continuing education clock hours in two main ways:

1. continuing education activities conducted under the sponsorship of an acceptable institution or organization (see §805). The number of clock hours claimed are counted as specified by the sponsor. If the continuing education was awarded in Continuing Education Units (CEUs), these will be converted to clock hours at a one to ten (1:10) ratio. Example: 1.5 CEUs = 15 clock hours.

2. registered attendance at a professional meeting, conference, or convention which lasts one full day or longer. Each such meeting conference or convention may be counted as three clock hours, but no more than 12 clock hours may be earned this way per biennial period.

D. Acceptable continuing education activities are defined as:

1. formally organized and planned instructional experiences;

2. programs which have objectives compatible with the post doctoral educational needs of the licensed psychologist;

3. professional meetings, conferences, or conventions lasting one full day or longer which are designed to promote professional development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19: (January 1993).

§805. Acceptable Sponsorship

A. Accredited institutions of higher education.

B. Veterans Administration Hospitals which have approved Regional Medical Continuing Education Centers.

C. Veterans Administration Hospitals which have APA approved doctoral internship training programs.

D. National, regional, or state professional associations, or divisions of such associations, which specifically offer graduate or post doctoral continuing education training.

E. Activities (including home study courses) offered by the APA which carry approved Category I sponsorship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19: (January 1993).

§807. Unacceptable Offerings and/or Activities

The board will not recognize the following activities as fulfilling the continuing education requirements, even though such activities may be valuable for other professional purposes:

- A. presentations by the licensee;
- B. teaching or supervision by the licensee;
- C. holding organizational or professional offices or performing editorial responsibilities by the licensee;
- D. participating in or attending case conferences, grand rounds, informal presentations, or general continuing education programs sponsored by private and/or local hospitals;
- E. participating in general continuing education programs sponsored only by divisions of continuing education or conferences and institutes without the sponsorship of university graduate training departments;
- F. participating in informal self-study, self-selected reading, journal clubs, and/or audio/video tape review not awarded APA Category I continuing education credit;
- G. personal psychotherapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19: (January 1993)

§809. Reporting Requirements

A. **Report Form.** Each psychologist shall, in typewritten form, complete the Continuing Education Report provided by the board. The board will routinely distribute the Report Form along with its License Renewal Form.

B. **Signature.** By signing the Report Form, the licensee signifies that the report is true and accurate.

C. **Documentation.** Each licensee shall retain corroborative documentation of their continuing education for two years. Although this documentation is not routinely required as part of the licensee's submission, the board may, at its discretion, request such documentation. Any misrepresentation of continuing education will be cause for disciplinary action by the board.

D. **Biennial Reporting Period.** Psychologists holding even numbered licenses must submit to the board, in even numbered years, their Continuing Education Report along with their License Renewal Form. Psychologists holding odd numbered licenses must submit to the board, in odd numbered years, their Continuing Education Report along with their License Renewal Form. Continuing Education Reports shall be due July 1, and considered delinquent at the close of business July 31, in the year in which their continuing education is due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19: (January 1993).

§811. Extensions/Exemptions

A. Licensees on extended active military service outside the state of Louisiana during the applicable reporting period and who do not engage in delivering psychological services within the state of Louisiana may be granted an extension or an exemption if the board receives a timely confirmation of such status.

B. Licensees who are unable to fulfill the requirement because of illness or other personal hardship may be granted an extension or an exemption if timely confirmation of such status is received by the board.

C. Newly licensed psychologists are exempt from continuing education requirements for the remainder of the year for which their license is granted.

D. Licensees approved by the board for emeritus status are exempted from the continuing education requirements.

E. Licensees who are unable to comply with continuing education requirements due to unusual circumstances may petition to have their cases reviewed (i.e., extended medical illness) on an individual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19: (January 1993).

§813. Noncompliance

A. Noncompliance shall include, in part, incomplete reports, unsigned reports, failure to file a report, and failure to report a sufficient number of acceptable continuing education credits as defined in §803 above.

B. Failure to fulfill the requirements of the continuing education rule shall cause the license to lapse pursuant to R.S. 37:2357.

C. The State Board of Examiners of Psychologists shall serve written notice of noncompliance on a licensee determined to be in noncompliance. The notice will invite the licensees to request a hearing with the board or its representative to claim an exemption or to show compliance. All hearings shall be scheduled within 30 days of the date of notice of noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19: (January 1993).

§815. Reinstatement

A. For a period of two years from the date of lapse of the license, the license may be renewed upon proof of fulfilling all continuing education requirements applicable through the date of reinstatement and upon payment of all fees due under R.S. 37:2354.

B. After a period of two years from the date of lapse of the license, the license may be renewed by passing a new oral examination before the board, and payment of a fee equivalent to the application fee and renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19: (January 1993).

Mark P. Vigen, Ph.D.
Chairman

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Temporary Permits (LAC 46:LXXXV.307)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq., notice is hereby given that the Louisiana Board of Veterinary medicine adopted LAC 46:LXXXV.307 as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§307. Temporary Permits

A. The board may issue temporary licenses when the following conditions are satisfied:

1. applicant must make full application for licensure; such application is to include:

a. payment of fee to enroll in the next available state board examination, and

b. transfer from the Professional Examination Service of NBE and CCT scores which meet or exceed the passing score for Louisiana for the specific examination date and payment of fee for those transfers, except where applicant meets criteria of §303 A.2 and

c. payment of fee for temporary licensure.

2. applicant must demonstrate circumstances which prevented his ability to have taken the state examination on its last administration date;

3. applicant must demonstrate the intent to become a permanent or long-standing resident in the state of Louisiana;

4. applicant must demonstrate other extenuating circumstances which necessitate temporary licensure to the satisfaction of the board;

5. applicant must have participated in a preceptorship/intern program which meets or exceeds the requirements set forth in Chapter 11 of these rules.

B. Approval of temporary licensure may be granted by a majority vote of the board.

C. Only one temporary license may be issued to any individual.

D. All temporary licenses shall expire 30 days after publication of the scores on the next available state board examination.

E. No person having failed the state board examination may receive a temporary license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended by the Department of Health and Hospitals, LR 19: (January 1993).

L. Mike Cummings
DVM President

RULE

Department of Health and Hospitals Louisiana Health Care Authority

Annual Service Agreement

Under the authority of Act 390 of 1991 and in accordance with the provisions of R.S. 49:950 et seq., the Louisiana Health Care Authority proposes to adopt the following rule.

Annual Service Agreement

Introduction

This service agreement for state fiscal year 1992-93 is entered into by the Department of Health and Hospitals (DHH) and the Louisiana Health Care Authority (LHCA) in compliance with Act 390 of 1991. The agreement is a cooperative endeavor agreement in accordance with provisions of Article VII, Section 14C of the Louisiana Constitution.

I. Definitions

A. *Medically Indigent*—any bona fide resident of the state of Louisiana whose family unit size and gross income is less than or equal to 200 percent of the Federal Poverty Income Guidelines for that size family unit, rounded up to the nearest thousand dollars.

B. *Overcollections*—any monies from Medicare, Medicaid or other third party payer, or from direct patient payments, collected by or on behalf of the medical centers operated by the LHCA in excess of the amounts budgeted in the General Appropriations Bill for FY 92-93, as enacted, for operating expenses, as certified by the commissioner of administration and the Joint Legislative Committee on the Budget.

C. *Licensed Beds*—the number of beds in each medical center licensed by the Bureau of Health Services Financing and certified for participation in the Medicaid and Medicare programs.

II. General Agreement

The Louisiana Health Care Authority acknowledges that the Department of Health and Hospitals is legally responsible for the development and provision of health care services for the uninsured and medically indigent citizens of Louisiana, as well as preventative health services for the entire population.

The LHCA agrees to provide inpatient and outpatient hospital services on behalf of the Department of Health and Hospitals. The LHCA acknowledges that the provision of services to the medically indigent, to the uninsured and to others with problems of access to health care is its highest priority.

DHH agrees to work cooperatively with the Authority to provide acute mental health services at Authority facilities, in accordance with a memorandum of understanding between DHH and the LHCA.

III. Provision of Adequate Health Care Services

In accordance with the intent of Act 390 of 1991, the Louisiana Health Care Authority will strive to provide health services of sufficient quality and volume to meet the needs of the uninsured and medically indigent citizens of Louisiana. The LHCA and DHH agree that for FY 1992-93, "adequate services" shall be considered to consist of the following:

A. Those major services that are available at the medical centers on June 30, 1992, to any bona fide resident and taxpayer of the state of Louisiana determined to be uninsured, underinsured, or medically indigent and that are funded in the General Appropriation bill for FY 1992-93, provided that such appropriated funds are made available to the medical centers.

B. Adequate service provision shall also require that the medical centers maintain policies of access to services governed by the following:

1. The medically indigent or uninsured shall be afforded first priority for admission for any form of treatment available at the particular medical center.

2. Those persons who are determined not to be medically indigent or uninsured shall be admitted on a space available basis and shall be reasonably charged for treatment or service received.

3. Emergency treatment shall not be denied to anyone.

IV. Reduction, Elimination or Relocation of Services

A. The LHCA shall secure written approval from the secretary of DHH at least 60 days in advance of any reduction, elimination or relocation to another medical center of any major programs or services, or establishment of Centers of Excellence that require shifting of major services provided on the date of this agreement. DHH will not arbitrarily withhold approval as long as appropriate services continue to be provided and the change does not adversely affect any of the DHH's budget units.

B. The LHCA agrees not to construct, operate or fund a health care facility, or substantial portion thereof, which primarily treats insured patients other than those covered by Medicare and Medicaid.

V. Service Improvement and Development

The LHCA recognizes the need to improve and expand services in the medical centers in order to more fully meet the health care needs of the uninsured and medically indigent citizens of Louisiana. The Authority will work to improve access to care, placing highest priority on the following:

A. improved access to prenatal and HIV clinics in every medical center;

B. reduced waiting times for all outpatient services for which there exist medically inappropriate delays in scheduling appointments;

C. improved access to emergency services.

VI. Financing Arrangements

A. DHH agrees not to adjust interim Medicaid payment rates, target rates, disproportionate share formulas, or to amend the Medicaid State Plan as it relates to inpatient and outpatient hospitals services, without timely notice to the LHCA CEO.

B. LHCA agrees not to process any budget adjustment (BA-7) request to increase the expenditure authority at the LHCA or at any of its facilities without prior written approval of the secretary of DHH.

C. DHH agrees not to process any BA-7's where the means of financing would reflect use of the overcollections by the LHCA or its facilities without prior written approval of the LHCA CEO.

D. DHH and LHCA agree that no later than March 1, 1993, and annually thereafter a meeting will be held to determine the amount of overcollections, if any, to be transferred from the

Louisiana Health Care Authority to the Department of Health and Hospitals, as required by law.

E. LHCA agrees to provide DHH with monthly reports detailing collections by source of payment for each of its medical centers.

F. With regard to the liability for payment for services for those inpatients who are classified as self pay, the LHCA agrees to adhere to DHH Policy No. 4600-77 (DHH Liability Limitation Policy), until such time as a revised policy may be promulgated by the Authority through the Administrative Procedure Act.

G. Costs associated with the transition from DHH to LHCA administration of the medical centers and not otherwise specified in this agreement will be paid by the agency that is budgeted funds to cover those costs. Where a cost may be incurred in an area in which there is an incomplete functional separation between DHH and LHCA, each agency will bear its proportionate share of costs, based upon the approved cost allocation plan for the particular unit or upon another appropriate methodology for determining proportionate cost, as agreed by the two agencies.

H. LHCA shall not shift monies specifically earmarked in the budget process to alternative uses without prior written approval from the secretary of the Department of Health and Hospitals.

This includes outpatient clinic services, AIDS clinics and medication, and nurse stipends.

VII. Annual Revision of Service Agreement

DHH and the LHCA agree to revise this service agreement on annual basis, as required by law, and to promulgate the agreement through the Administrative Procedure Act. The draft annual agreement shall be published in the *Louisiana Register* in August of each year in order for significant changes to be considered in the budget process for the ensuing fiscal year.

J. Christopher Pilley
Secretary
Department of Health and Hospitals

Charles F. Castille
Acting Chief Executive Officer
Louisiana Health Care Authority

RULE

Department of Health and Hospitals Office of Public Health

Mechanical Wastewater Treatment Plants, Louisiana Sanitary Code Chapter XIII

The Department of Health and Hospitals, Office of Public Health hereby amends the Louisiana Sanitary Code, Chapter XIII, Appendix A, VI., Mechanical Wastewater Treatment Plant, in part, more specifically as follows:

Delete:

A:6.4 in its entirety and replace with the following:

Add

A:6.4 Permitted individual mechanical plants shall comply with "Standard Number 40 - Individual Aerobic Wastewater Treatment Plants" as adopted by the NSF Board of Trustees, Ann Arbor, Michigan as revised July 1990 and shall comply with the following deletions, amendments and/or additions: (Copies of this Standard may be acquired from the National Sanitation Foundation, Box 1468, Ann Arbor MI 48106 and the amendments may be acquired from the Chief Engineer Office of Public Health, Box 60630, New Orleans, LA 70160.)

* * *

(a). Deletions:

5.1.1 (in part) Individual effluent samples shall not exceed a BOD₅ of 60 mg/l and SS of 100 mg/l.

* * *

5.5 (entirely) Modification of Test Methods

* * *

Appendix A, G.1(a) (entirely)

* * *

Appendix A, H.3 (entirely)

* * *

Appendix A, I (in part) along with the rationale for exclusion of any data due to adverse conditions during testing.

* * *

Appendix C (entirely)

* * *

Add:

A:6.4.1 Permitted individual mechanical plants shall strictly comply with the related requirements provided for in Appendix A:6.5 of this Chapter. In all cases, judgment as to compliance with either NSF Standard Number 40 requirements (as revised May 1983 and July 1990 as applicable) and/or additional, related requirements provided for in Appendix A:6.5 of this Chapter shall be the responsibility and sole authority of the chief engineer of the Office of Public Health. Such judgment as to compliance with either NSF Standard Number 40 requirements (as revised May 1983 and July 1990 where applicable) and/or additional, related requirements provided for in Appendix A:6.5 of this Chapter by the Department of Health and Hospitals, Office of Public Health, shall be evidenced upon issuance of approval in accordance with provisions of Appendix A:6.7 of this Chapter.

Add:

A:6.4.2 In addition to the provisions of the "Standard Number 40 Relating to Individual Aerobic Plants" adopted by the Board of Trustees of the National Sanitation Foundation (NSF) Ann Arbor, Michigan, as revised May 1983, and revised July 1990, the following Department of Health and Hospitals/Office of Public Health (DHH/OPH) requirements, as referenced to the appropriate section(s) of NSF Standard Number 40, shall also apply:

(a). Scope

As this Standard deals with the operation and maintenance requirements of the plants, as well as a plant's ability to function over a long period of time, once installed, no physical changes or substitution of component parts are to be made without the express written consent of DHH/OPH. Absent

mitigating circumstances, which will be considered by DHH/OPH, the testing agency utilized, unless with approval of the chief engineer, must be the same agency as the one which conducted the original performance testing and evaluation.

(b). Minimum Requirements

Any proposed variations in plant design or components must receive DHH/OPH approval. Such approval by DHH/OPH shall not be considered unless and until appropriate, related approval (or certification) is first secured from the testing agency by the manufacturer, establishing that the proposed variations in plant design or components are in comprehensive compliance with any/all provisions of the NSF Standard, respectively as may be applicable. Applications for DHH/OPH acceptance of proposed variations must be in writing and must be accompanied by both the testing agency approval, as required, and adequate/appropriate supporting data which clearly justifies any proposed variations. If an application for proposed variations is considered approvable by DHH/OPH, such acceptance (or approval) shall be so indicated to the manufacturer in writing by DHH/OPH. In no case shall variations in design or components of installed plants occur without benefit of (in advance of) written DHH/OPH approval.

(c). Alternate Materials

This Section clearly requires the approval of alternate materials by the testing agency. In addition, as is generally detailed in (b) above, written DHH/OPH approval shall also be required prior to use of any alternate materials, as compared to those originally tested, certified and approved (by both the testing agency and DHH/OPH). As in Section (b) above, similar requirements for written application by the manufacturer (to DHH/OPH) for approval of alternate materials, accompanied by testing agency certification (or approval) and adequate/appropriate supporting data, as justification, shall also apply.

(d). Materials

All "General": In light of the requirements of (a), (b), and (c) above, the durability and suitability of materials, coatings and fittings shall be addressed by the testing agency in the performance evaluation. Minimum requirements shall be specified by the manufacturer. In the course of such minimum requirements considerations, detailed handling specifications, particularly for "coated" plants or portions thereof, shall be provided and assured. It shall be the responsibility of the testing institution, in the conduct of the evaluation process, to consider the ability of materials to withstand the anticipated adverse impact due, in particular to contact with those soil conditions, and other, related environmental circumstances peculiar to Louisiana, i.e., acidic conditions, highly conductive soils, and etc.

(e). Design and Construction: Structural Soundness and Characteristics

Minimum standards, with reference to nationally accepted specifications (such as ASTM), shall be established by the manufacturer and approved by the testing agency. Assurance of quality control by the manufacturer (and/or his subcontractor) shall be provided.

Accessibility for Inspection and Maintenance:

The grade level "access manholes" shall be of sufficient size and so located so as to allow for all of the following:

1. visual inspection and removal of all mechanical or electrical components;
2. visual inspection and removal of any component which requires periodic cleaning or replacement;
3. visual inspection and sampling of aeration chamber;
4. removal (manually or by pumping) of collected grease or sludge on pretreatment sections (this may be below grade).

(f). Indicators of Failure

The absence of any particular function or sound shall not be considered as an acceptable indicator of failure. The Standard calls for "a positive and recognizable indication or warning" such as a light or audible alarm. Such light or audible alarm must be overtly recognizable, i.e., the light or audible alarm must be "on" (seen or heard) during the failure situation. Additionally, the location of the failure indicator shall be considered critical, i.e., the location of the failure indicator shall be such that it would be easily observed or heard during the course of a normal day's activities by the homeowner/user. The suitability of the failure indicator both in terms of nature (or functionally) as regards the intended failure indication capability and in terms of contrived or alternately acceptable positioning (location) of the device, shall be certified (or approved) by the testing agency. Additionally, DHH/OPH approval of (concurrence with) any testing agency certification of a particular failure indicator (light or alarm) shall also be required prior to such failure indicator(s) usage.

(g). Serviceability

The requirements of this Section must be included in the consideration of compliance with (a) through (f).

(h). Data Plates

The required data plates, as well as the information thereon, shall be of a permanent type, i.e., shall be of such material(s) so affixed and inscribed (etched) so as to reasonably guarantee persistence (of the data plate and discernible, required information indicated thereon) under various anticipated environmental or other adverse conditions throughout the expected useful life of the plant.

(i). Mechanical Component Parts

Component parts protected against flooding by means of a high-level electrical cutoff switch shall include indication of failure for loss of electrical power.

(j). Electrical Component Parts and Plants

Control "boxes" with appropriate fuses/breakers shall be provided for all plants, where applicable. Failure indicator shall be incorporated into such control boxes.

(k). Covers or Other Protection

Protection of openings of smaller than eight inches in diameter may be accomplished by tight fitting "cap" or plug. For all openings of eight inches in diameter and larger the requirements of acceptable protection shall be complied with. Openings shall not be smaller than six inches.

(l). Standard Performance Evaluation Method Prequalification

In addition to the required submission of complete design information and a complete installation/operation/maintenance manual to the testing agency, an identical, conjunctive submittal shall also be made to DHH/OPH.

(m). General Test Conditions and Reporting

A "minimum of six months" shall be interpreted to mean for a minimum of 26 consecutive weeks, which shall be

represented by a minimum of 130 sampling days.

(n). Loading (Manufacturer's Design)

The testing agency shall provide advance information to DHH/OPH specifying how proper hydraulic loading of the plant (to be tested) will be accomplished. Additionally, subsequent to the testing of the plant, the testing agency must be able to provide verification (to DHH/OPH) of proper hydraulic loading, i.e., "feed rate," etc., and confirmation as to how such proper (required) loading was accomplished.

(o). Operation, Installation, and Maintenance

In the interest of reasonably assuring "objectivity" of plant testing, the following plant test site "security" measures shall be accomplished:

(1). Manufacturer (or representative thereof) access to the plant test site may be allowed only for test plant installation and set-up. Subsequent access to the test site by the manufacturer (or representative thereof) shall be discouraged.

(2). The plant test site shall be fenced and locked with access thereto strictly controlled by the testing agency. Each plant test site visit (access) by all persons, including other than authorized employees of the testing agency, shall be properly documented and recorded by the testing agency. Further all visitors shall be accompanied by authorized employees of the testing agency.

(p). Testing Season

Testing may be performed anytime during the year. However at no time shall the temperature of the aeration compartment contents exceed 30°C (86°F), unless mitigating circumstances can be justified as contributing to short term temperature excursion. Mitigating circumstances which may be considered as justifiable include test unit structural weakness, defect and/or failure of process support equipment.

(q). Start Up Performance Specifications and Procedures

All testing, both "general" and "stress," must be accomplished on only one singular plant. The testing on this one plant shall be continuous, with "general" testing preceding "stress" testing.

Filling of the plant with "water" shall be interpreted to mean filling of the plant with clear, potable water.

"Raw wastewater of reasonably typical domestic character" shall be interpreted to mean wastewater of a domestic (sanitary) sewage nature which characteristics, as shall be reflected by the daily influent composites analyses required in NSF Standard Number 40, shall be consistently observed to be within the range of 160 mg/l to 290 mg/l, both for biochemical oxygen demand (BOD₅) and for total suspended solids (SS), except that up to and not greater than five percent of the total number of such series of daily observations for influent character may be allowed to reflect representative values which occur "outside," i.e., "lower than" or "higher than" the range of 160 mg/l to 290 mg/l. Testing agency must report to DHH/OPH immediately if influent sewage strength is determined, by means of required analyses, to fall outside of range parameter, i.e., <160 mg/l and/or >290 mg/l respectively for BOD₅ and SS. The chief engineer (OPH) shall determine if and what extension of the testing period is required to compensate for the low and/or high strength of influent.

(r). Stress Testing

Immediately prior to each "stressing sequence," 24-hour

composites of both (one each) influent and effluent shall be collected, per composite sampling requirements otherwise specified in the Standard. Additionally, immediately following each "special dosing requirement," 24-hour composites of both (one each) influent and effluent shall be collected for a period of seven (consecutive) days. Daily aeration chamber grab samples shall also be collected during each composite-sampling day. Analyses of all samples shall be in accordance with the specified Standard requirements. This requirement only applies to NSF Standard Number 40, as revised May 1983.

(s). Effluent Quality

All testing, as specified for color threshold odor oily film and foam, shall be conducted on the 1:1000 diluted effluent.

(t). Noise

Compliance for "noise" measurement, as specified, shall be determined by at least five noise level tests conducted around the plant, e.g. directly north, east, south, and west of the plant and at a point directly downwind during a period when all electrical and/or mechanical components are in actual operation.

(u). Initial Service Policy

Compliance with the two-year initial service policy and with the provisions thereof (which shall be furnished to the purchaser by the manufacturer) shall be required. Evidence of such compliance shall be appropriately maintained by the manufacturer and/or authorized installer therefor, and shall be made available to DHH/OPH upon written request, as may be required.

(v). User's Manual

"Flow diagram(s)" must be provided in the Users' Manual. "Flow diagram" is interpreted to mean a diagram of "wastewater" flow through the plant.

(w). Test Protocol

Strict adherence to resumptive design loading provisions, between each stressing sequence, shall be required.

* * *

Amend A:6.5 to read:

Whereas NSF Standard Number 40 includes two classes of plants designated as Class I and Class II, only Class I plants will be permitted in Louisiana. All plants installed shall be required to meet NSF Standard Number 40 for Class I plants, as revised May 1983 and revised July 1990 as applicable.

* * *

Add A:6.6.2:

As initial basis for approval by the Department of Health and Hospitals, Office of Public Health, manufacturers of individual mechanical plants shall submit, for approval, evaluation reports indicating compliance with applicable provisions of NSF Standard Number 40 and with related requirements specified in Appendix A:6.5 of this Chapter. Approval by the Department of Health and Hospitals, Office of Public Health of such evaluation reports shall be a prerequisite to consideration of issuance of a permit/approval by the Department of Health and Hospitals, Office of Public Health, Box 60630, New Orleans, LA 70160, and shall be reviewed and considered for approval by same (Engineering Services Section), subject to following:

(a). The compliance evaluation report shall be prepared by an appropriate competent, unbiased independent testing laboratory or institution, i.e., a college or university. Evidence of

competency and unbiasedness on the part of the testing (evaluation) authority which may propose to conduct testing and to prepare an evaluation report, as specified in this Section, shall be required by the Department of Health and Hospitals, Office of Public Health. A minimum, such evidence must consist of written documentation of the credentials of the principals scheduled to be directly or indirectly involved in the testing/evaluation, i.e., curriculum vitae, and execution of written affidavits by all involved testing/evaluation principals attesting to respective unbiasedness. The latter affidavits of attested unbiasedness, shall be so structured and conform to language/content specifications as shall be specified by Department of Health and Hospitals, Office of Public Health, upon advise of its legal counsel.

(b). The compliance evaluation report, which shall be prepared subsequent to related actual, physical individual mechanical plant testing in strict accordance with NSF Standard Number 40 testing/evaluation requirements (as revised May, 1983 and revised July 1990, where applicable) and in accordance with additional, related requirements specified in Appendix A.6.5 of this Chapter shall be directly tendered to Department of Health and Hospitals, Office of Public Health by the testing/evaluation authority, with manufacturer (of record) permission. Comparative evaluations, based on prior, not-directly related to individual mechanical plant(s) testing(s)/evaluation(s), and submissions of compliance evaluation report(s) based upon such comparative evaluations shall be considered as unacceptable basis for approval consideration and/or approval issuance by Department of Health and Hospitals, Office of Public Health, as is required by this Code.

(c). Prior to initiation of testing/evaluation of an individual mechanical plant, in accordance with applicable provisions of Sections 6.4, 6.5, 6.6 and 6.7 of this Appendix, the aforementioned independent testing laboratory or institution shall submit a protocol (or written specification) of testing/evaluation, as is proposed, to the Engineering Services Section of the Department of Health and Hospitals, Office of Public Health for review and written approval. Such protocol shall include certain information as well as specified by Engineering Services Section, upon direct inquiry to same. Upon approval of the testing/evaluation protocol by Department of Health and Hospitals, Office of Public Health, the testing/evaluation authority, i.e., independent testing laboratory or institution, shall, in writing, notify the Engineering Services Section of the Department of Health and Hospitals, Office of Public Health of the proposed date and time of testing initiation. Such projected date/time of testing initiation shall be so scheduled as to allow sufficient opportunity, as shall be mutually agreed to between the testing/evaluation authority and Engineering Services Section, for test plant/site, support evaluation/laboratory facilities and other facilities inspection(s) by personnel of Engineering Services Section of the Department of Health and Hospitals, Office of Public Health, both before and during the testing of the individual mechanical plant, as may be proposed. In the case of similar compliance testing/evaluation performed in other states, the Department of Health and Hospitals, Office of Public Health may consider obviation of certain or all of the prior notification and test site inspection

requirements herein specified. Alternately, however, an evaluation of the test facilities, procedures and other related details may be required to be provided by an appropriate state regulatory agency having delegated jurisdiction in the respective state, other than Louisiana, in which such individual mechanical plant testing/evaluation may be performed.

(d). Any fraudulent or otherwise intentionally misrepresented information submitted to Department of Health and Hospitals, Office of Public Health, as regards evaluation reports and/or related, required documentation requirements in these regards, shall serve as basis for summary denial of petition for approval of an evaluation report and, alternately, in the event that an evaluation report has been approved and approval has been granted, as basis for approval/permit revocation. Further, in the event that a denial of petition for approval of an evaluation report and/or a revocation of approval may occur, upon declaration of fraudulent or intentional misrepresentation of information basis, Department of Health and Hospitals, Office of Public Health shall not consider for approval any subsequent or alternate similar information tendering by any entity, whether individual or corporate, who/which has been determined to have participated, in any manner or by any means, whether jointly or severally, in the preparation of and/or tendering of fraudulent or otherwise misrepresented information to Department of Health and Hospitals, Office of Public Health.

(e). The personnel of the Office of Public Health shall have unrestricted access to the test site, equipment and records at all times before, during and after the testing,

(f). The testing institution shall provide in writing to Office of Public Health, both prior to start of testing and subsequently with respect to conclusion thereof, that no testing institution personnel are involved either directly or indirectly with the material, equipment, sales, testing, servicing, maintenance or any other aspect that may involve either directly or indirectly monetary gain and/or benefit from said units, as may become/may have been tested and/or as may become approved for subsequent manufacture and/or sale, consequent to successful testing/evaluation with respect thereto (said units).

(g). All documentation including but not limited to notes, data, calculations, bench data, inspections, and pictures, as may become performed, created, or otherwise derived in association with testing/evaluation as is governed by these Codal provisions, shall be provided to OPH upon written request within seven calendar days of request by DHH/ OPH and shall become part of the public records. All such documents shall be certified as to authenticity and completeness.

(h). All items in (g) shall be maintained by the testing institution for a minimum of a period of three years after final approval by Office of Public Health.

(i). Failure to provide all requested documentations, as may be required with respect to these Codal provisions, categorically within the time frame and manner so requested, shall serve as basis for summary denial of the entire submittal, i.e., denial of application.

(j). Positive identification of all owners, officers, agents, stockholders, contractors, sub-contractors, as may be in any manner or by any means associated with the petitioner e.g., manufacturer of record concerning any application for approval, in these regards, as may become evidenced to DHH/OPH, shall

be approved at the time of application to begin testing, and changes thereto shall be provided within seven days of said change(s) in association.

(k). All change(s) of owners, etc., in (j) for the three years after approval by Office of Public Health shall be provided when said changes occur; failure to do so shall be grounds for withdrawal of approval and decertification from the Louisiana list of approved units.

(l). No person involved with the testing facility or college either directly or indirectly, may become an owner, partner, or stockholder of any individual mechanical treatment plant within three years of the approval date of said unit by DHH. Said unit shall be decertified and removed from the Louisiana list of approved units should such (subsequent to approval) ownership occur.

(m). Persons, corporations, etc., 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.

J. Christopher Pilley
Secretary

RULE

Department of Labor Workers' Compensation Second Injury Board

Medical Reimbursement Schedules (LAC 40:I.Chapters 25-51)

In accordance with R.S. 49:950 of the Louisiana Administrative Procedure Act, and under the authority of R.S. 23:1034.2 of Act 938 of 1988 Regular Louisiana Legislative Session and R.S. 23:1203, the director of the Office of Workers' Compensation has determined that because of the imminent peril to the public health, safety and welfare, it is necessary the Office of Workers' Compensation adopt immediate medical reimbursement schedules.

The purpose of the Medical Reimbursement Schedules is to coordinate an efficient program to administer medical services to injured workers. The medical reimbursement schedules will include fee schedules for drugs, supplies, hospital care and services, medical and surgical treatment and any non-medical treatment recognized by laws of this state as legal and due under the Workers' Compensation Act and is applicable to any person or corporation who renders such care, services or treatment or provides such drugs or supplies to all employees covered by Chapter 10 of Title 23 of the Revised Statutes of 1950.

Additionally, Act 938 mandates the promulgation of a medical reimbursement fee schedule by the director of the Office of Workers' Compensation effective January 1, 1989.

The medical reimbursement schedules establish a basis for billing and payment of medical services provided to all injured employees.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

- Chapter 25. Hospital Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 29. Pharmacy Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 31. Vision Care Services, Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 33. Hearing Aid Equipment and Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 35. Nursing/Attendant Care and Home Health Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 37. Home and Vehicle Modification Reimbursement Schedule, Billing Instructions and Maintenance Procedures
- Chapter 39. Medical Transportation Reimbursement Schedule, Billing Instructions and Maintenance Procedures
- Chapter 41. Durable Medical Equipment and Supplies Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 43. Prosthetic and Orthopedic Equipment
- Chapter 45. Respiratory Services Reimbursement Schedule, Billing Instructions and Maintenance Procedures
- Chapter 47. Miscellaneous Claimant Expenses Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 49. Vocational Rehabilitation Consultant Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 51. Medical Reimbursement Schedule, and Billing Instructions

These rules are in effect with dates of service beginning November 1, 1992. A copy of the reimbursement schedule is available for purchase at \$.25 a page and can be obtained by contacting Judy Albarado at (504) 342-7559 or at the Office of Workers' Compensation Administration, Box 94040, Baton Rouge, LA 70804-9040 or 1001 North Twenty-third Street, Baton Rouge, LA 70804.

Alvin J. Walsh
Director

RULE

Department of Transportation and Development Board of Registration of Professional Engineers and Land Surveyors

Bylaws (LAC 46:LXI.Chapter 27-31)

In accordance with R.S. 49:950, et seq., notice is hereby given that the Louisiana State Board of Registration for Professional Engineers and Land Surveyors has amended LAC 46:LXI as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors

Subpart 2. Bylaws

Chapter 27. General Information

§2703. Board Members

A. Number of Board Members

The board shall be comprised of 11 members, each of whom shall be appointed by the governor in accordance with the requirements established by law.

C. Date of Elections

The election of board officers shall take place at the board's annual meeting in July. In the event that an officer cannot complete his term, an election in order to fill the unexpired term shall be scheduled at the earliest practical regular or special meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration of Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1179 (December 1985), LR 19: (January 1993).

§2705. Standing Committees

A. Committees

The board shall establish the following Committees: Executive Committee, Agricultural Engineering Committee, Chemical Engineering Committee, Civil Engineering Committee, Electrical Engineering Committee, Industrial Engineering Committee, Mechanical Engineering Committee, Metallurgical Engineering Committee, Mining Engineering Committee, Nuclear Engineering Committee, Petroleum Engineering Committee, Land Surveying Committee, Engineer-in-Training Committee, Finance Committee, and Nominations Committee.

D. Engineering Committees

9. Nuclear Engineering Committee;

10. Petroleum Engineering Committee.

E. Land Surveying Committee

The Land Surveying Committee shall (1) review applications for registration as a professional land surveyor; (2) review applications for certification of persons as a land surveyor-in-training; (3) conduct oral examinations or interviews; (4)

supervise the selection of examinations on the fundamentals of, on principles and practice of, and on the laws and procedures of land surveying; (5) recommend passing scores for their respective written examinations; and (6) evaluate and recommend land surveying curricula acceptable to the board.

H. Curricula Committee

The chairman shall appoint a Curricula Committee to evaluate and make recommendations to the board concerning the quality of the engineering curricula, related science curricula, and related technology curricula, along with an evaluation of the faculties and facilities of schools within the state of Louisiana. The Curricula Committee shall have the power to make inspections in the course of its evaluations. The committee chairman shall coordinate the selection of board observers for all ABET visitations in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1180 (December 1985), LR 19: (January 1993).

§2707. The Executive Secretary

C. Duties of the Executive Secretary

18. be an associate member of the National Council of Examiners for Engineering and Surveying (NCEES);

24. keep a register of receipts and expenditures, maintaining such financial books and will at all times show the financial condition of the board and the validity of the registrations and of the certificates which have been issued;

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1180 (December 1985), LR 19: (January 1993).

§2709. Meetings

B. Annual Meeting

The first regular meeting of the fiscal year is to be held in July and shall be designated as the annual meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1181 (December 1985), LR 19: (January 1993).

§2713. Executive Session

A. Reasons for Calling Executive Sessions

Executive sessions may be held for the following purposes:

4. investigative proceeding regarding allegations of misconduct;

5. cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances, suppression of insurrections, the repelling of invasions, or other matters of similar magnitude; or

6. discussion of board office operations, staff personnel assignments, pay, and benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), amended LR 19: (January 1993).

§2715. Voting

I. (Repealed)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), amended LR 19: (January 1993).

§2719. Publications of the Board

A. Roster

A roster showing the names and addresses of all registered professional engineers, the branch of engineering in which professional engineers are registered, and all registered land surveyors may be published by the board. Upon request, a copy of this roster shall be mailed without charge to each person so registered. Extra copies to registrants and copies to others shall be furnished upon payment of a fee established by the board. The roster shall be placed on file with the secretary of state and in the libraries of all colleges and universities in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), LR 19: (January 1993).

§2725. Compensation and Expenses

A. Authority to Incur Traveling Expenses

2. The board may, by resolution at one of its meetings, authorize any of its members or representatives to travel at the expense of the board to attend meetings and conventions such as those of the National Council of Examiners for Engineering and Surveying (NCEES), the Accreditation Board for Engineering and Technology (ABET), or other allied organizations. Per diem for time spent traveling and for time spent at the meeting will be allowed. The allowance of per diem for time spent traveling shall not exceed the total number of days computed by dividing the most direct route driving mileage by 400 miles per day.

RULE

**Department of Transportation and Development
Board of Registration of Professional Engineers and Land Surveyors**

Certification, Registration, Temporary Permits
(LAC 46:LXI.Chapters 3-25)

In accordance with R.S. 49:950, et seq., notice is hereby given that the State Board of Registration for Professional Engineers and Land Surveyors has revised LAC 46:LXI as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors

Subpart 1. Rules

Chapter 3. Requirements for Certification and Registration of Individuals and Temporary Permit to Practice Engineering (Reference Chapter 11. Curricula, Chapter 13. Experience, and Chapter 15. Examinations.)

§305. Professional Engineer Registration

A. An applicant for registration as a professional engineer must be of good character and reputation and recommended by five personal references, three of whom are registered professional engineers and who have personal knowledge of the applicant's character and abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:693B.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:350 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19: (January 1993).

§311. Land Surveyor Registration

B. 4. Reciprocity (or Comity)

The applicant shall be a person who holds a valid certificate of registration to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provision of the registration law (R.S. 37:681 through 37:703 as amended by Act 568 of 1980) and the rules of the board, who has passed a written examination in the laws, procedures, and practices pertaining to land surveying in Louisiana, who is of good character and reputation, and who has satisfied the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia in which he/she is registered will accept the certificates of registration issued by the board on a reciprocal basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:693B and R.S. 37:694.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:244 (August 1976), amended LR 2:351 (November 1976), LR 5:114 (May 1979), LR

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), LR 19: (January 1993).

§2727. Board Nominations

A. Guidelines and Procedures

The following guidelines and procedures will be observed in order that timely and prudent advice can be given to the Louisiana Engineering Society and the Louisiana Society of Professional Surveyors with regard to nominees for vacancies on the board.

1. At each annual meeting, the board will determine and publish in the minutes of the meeting, and include in the annual report issued to the governor, the names of the sitting board members and the respective division of engineering practice of each, in the case of engineers, and the identity of the registered professional land surveyor members. A copy of the list will be forwarded by certified mail, return receipt requested, to the Louisiana Engineering Society and the Louisiana Society of Professional Surveyors.

b. If a board member is not a member of the Louisiana Engineering Society or the Louisiana Society of Professional Surveyors, it shall be his duty to notify the executive secretary of any significant change in his regular employment; the executive secretary shall so advise the Louisiana Engineering Society and the Louisiana Society of Professional Surveyors for its action, if any, prior to the annual meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:299 (August 1978), amended LR 5:120 (May 1979), LR 11:1182 (December 1985), LR 19: (January 1993).

Chapter 29. Organization of the Board

Repealed (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:53 (February 1976), amended LR 3:502 (December 1977), LR 5:118 (May 1979), repealed LR 19: (January 1993).

Chapter 31. Administration

Repealed (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:54 (February 1976), amended LR 5:119 (May 1979), repealed LR 19: (January 1993).

Paul L. Landry, P.E.
Executive Secretary

6:735 (December 1980), LR 7:645 (December 1981), LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19: (January 1993).

Chapter 5. Rules Governing Corporations and Firms

§503. Firm Title

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:116 (May 1979), LR 8:191 (April 1982), repealed LR 19: (January 1993).

§509. Enforcement

B. Any firm that has qualified with the board in accordance with the above rules shall be deemed to be a registrant of the board and therefore shall be subject to all disciplinary provisions provided for in the registration law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:503 (December 1977), amended LR 5:117 (May 1979), LR 8:191 (April 1982), LR 19: (January 1993).

Chapter 7. Applications and Fees

§701. Applications

A. Applications for registration as professional engineer or land surveyor shall be typed on forms furnished by the board, shall contain statements made under oath showing the applicant's qualifications, and the names and addresses of persons who can verify such statements and in addition, the names and addresses of five personal references. Three or more of the five personal references furnished by an applicant for registration as a professional engineer shall be registered professional engineers. Three or more of the five personal references furnished by an applicant for registration as a land surveyor shall be registered land surveyors.

I. Any application for registration of an engineering firm and/or land surveying firm must be typed on the form provided by the board, must be completed in its entirety and must contain the name, registration number, and signature of all Louisiana registered professional engineers designated as supervising professionals in accordance with Chapter 5. The name and signature of an officer of the firm duly authorized to make certifications on behalf of the firm must appear in the specified location of the form. If the applicant is a corporation, a copy of the corporation's Louisiana State Charter (domestic) or Certificate of Authority (foreign) must accompany the application. Designated supervising professionals for the firm must also successfully complete a Louisiana Laws and Rules Examination prior to registration of the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 11:362 (April 1985), LR 19: (January 1993).

Chapter 11. Curricula

§1101. Approved Curricula

D. Until January 1, 1995, the board may recognize as approved for the registration of land surveyors under R.S. 37:693B(4)(b) all approved engineering curricula that contain at least six semester credit hours, or equivalent, of satisfactory surveying courses.

E. Until January 1, 1995, the board, by a majority vote at a regular meeting, may recognize a curriculum of a college or university of recognized standing, leading to a bachelor of science degree, as an approved curriculum for the registration of land surveyors under R.S. 37:693B(4)(b) provided the curriculum contains at least six semester credit hours, or equivalent, of satisfactory surveying courses.

F. Until January 1, 1995, the board may recognize that the formal education of an applicant for registration as a land surveyor meets the requirements of R.S. 37:693B(4)(b) if he/she has passed 60 semester hours, or the equivalent, of courses above the high school level, including at least six semester hours, or the equivalent, of satisfactory surveying courses.

G. The board, by a majority vote at a regular meeting, may approve curricula that contain at least 30 semester credit hours, or the equivalent, of satisfactory land surveying, mapping, and real property courses as required under R.S. 37:693B(3)(b) for certification as a land surveyor-in-training and under R.S. 37:693B(4)(f) for registration as a professional land surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:693.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 10:805 (October 1984), LR 19: (January 1993).

Chapter 15. Examinations

§1501. General

E. Examinees will be notified in writing what material will be permitted in the examination room when scheduled for an examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:693.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 16:774 (September 1990), LR 19: (January 1993).

§1515. Re-Examinations

A. A person who fails an examination is eligible to apply to retake the examination. A request for re-examination must be submitted in writing on the form specified by the board prior to the deadline date for scheduling of the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:693.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:113 (May 1979),

Chapter 17. Rules Governing the Use of Seals
§1701. Seal Rules

E. 1. the client or any public or governmental agency requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the registrant, or the registrant's employee as long as the employee works in the registrant's place(s) of business; and

2. the registrant supervises the preparation of the plans, specifications, drawings, reports or other documents and has input into their preparation prior to their completion; and

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:112 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19: (January 1993).

Chapter 25. Minimum Standards for Property Boundary Surveys

§2507. Property Boundary Survey

F. 7. All field data gathered shall satisfy the requirements of the following Subsection on plats, maps, and drawings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:681, 682(9), 688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), LR 19: (January 1993).

Paul J. Landry, P.E.
Executive Secretary

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Menhaden Season (LAC 76:VII.307)

The Wildlife and Fisheries Commission does hereby adopt a rule, in accordance with the Administrative Procedure Act, to establish legal menhaden fishing areas.

Title 76

Wildlife and Fisheries

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§307. Menhaden Season

* * *

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

inside waters and passes are permanently closed to menhaden fishing.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:313, 56:6(25)(a), and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 5:329 (October 1979), amended LR 15:546 (August 1988), amended LR 19: (January 1993).

Bert H. Jones
Chairman

NOTICES OF INTENT

NOTICE OF INTENT

Department of Economic Development Office of Commerce and Industry Division of Financial Incentives

Biomedical Research and Development Park Program (LAC 13:I.Chapter 41)

Notice is hereby given that the Department of Economic Development, Office of Commerce and Industry, intends to adopt the following rule to implement Act 990 of the 1992 Regular Session of the Louisiana Legislature.

Title 13

ECONOMIC DEVELOPMENT Part I. Commerce and Industry Subpart 3. Financial Incentives

Chapter 41. Louisiana Biomedical Research and Development Park Program

§4101. General

Relief from taxation may be granted as provided under R.S. 46:318.1(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4103. Definitions

For purposes of these rules, the following terms shall have the meaning hereafter ascribed to them, unless the context clearly indicates otherwise:

A. Medical concerns which are technology-based or innovative growth oriented are defined as "companies engaged in the application of science especially to industrial or commercial objectives. Such companies should be engaged in the development, manufacture, and sale of products that emerge from or depend upon the practical application of scientific or technological advances."

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4104. Qualifications

To qualify for the Louisiana Biomedical Research and Development Park Program tax incentives an applicant must be a "medical concern", as defined in this rule, must provide documentation evidencing its location in the park area, as described in R.S. 46:813.A, and must demonstrate, by written statement, its viability and ability to contribute to the improved

health care of citizens and through improved economic conditions, creation of jobs and to the development of the park area. The statement should include all factors which are relevant to the continued and expanded operations of the applicant including, but not limited to, the following:

1. the benefits to the state in terms of continued employment opportunities, expenditures for goods and services, contributions to the revenue base of the state and local governments, and the creation of new and additional permanent jobs;
2. competitive conditions existing in other states or in foreign nations;
3. the economic viability of the applicant, and the effect of any tax exemptions or credits on economic viability;
4. the effects on the applicant of temporary supply and demand conditions;
5. the effect of casualties and/or natural disasters;
6. the effects of United States and foreign trade policies;
7. the effect of federal laws and regulations bearing on the economic viability within the state of the applicant;
8. the competitive effect of like or similar exemptions or credits granted to other applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4107. Filing of Applications

A. An "Advance Notification" of intent to file for the Louisiana Biomedical Research and Development Park tax incentives shall be filed prior to the beginning of construction, acquisition of equipment, and/or occupation of facilities. An advance notification fee of \$100 shall be submitted with the prescribed advance notification form. Any purchases made prior to the filing of the advance notification may not be eligible for exemption and/or credit. Applications must be filed with the Office of Commerce and Industry, Box 94185, Baton Rouge, LA 70804-9185 on the prescribed form, along with any required additional information, within six months after the beginning of construction or three months before completion of construction or the beginning of operations, whichever occurs later.

B. Applications must be submitted to the Office of Commerce and Industry at least 60 days prior to the Board of Commerce and Industry meeting where it will be heard. An application fee shall be submitted with the application based on 0.2 percent of the estimated total amount of taxes to be rebated, exempted, or credited. In no case shall an application fee be smaller than \$200 and in no case shall a fee exceed \$5,000 per project. A fee of \$50 shall be charged for the renewal of a contract.

C. Within six months after construction has been completed, the applicant from the establishment shall file, on the prescribed form, an affidavit of final cost showing complete cost of the project, together with a fee of \$100 for the plant inspection which will be conducted by the Office of Commerce and Industry. Upon request by the Office of Commerce and Industry, a map showing location of all facilities claiming exemptions in the project will be submitted in order that the

property for which rebates are claimed may be clearly identified.

D. The Office of Commerce and Industry reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the estimated exemptions or the fee submitted is incorrect. The document may be resubmitted with the correct fee and/or information. Documents will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for advance notifications, applications, renewals, or affidavits of final cost which have been accepted, will not be refundable.

E. The applicant proposing a project with a construction period greater than two years must file a separate application for each construction phase. An application fee shall be submitted with each application filed, based on the fee schedule in §4107.B above.

F. The Office of Commerce and Industry is authorized to grant a six-month extension for filing of the application. An authorized representative of the Board of Commerce and Industry must approve further extension. All requests for extension must be in writing and must state why the extension is requested.

G. Please make checks payable to: Louisiana Office of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4109. Recommendations of the Secretaries of Economic Development and Revenue and Taxation

The Office of Commerce and Industry shall forward the application with its recommendations to the secretary of Economic Development and the secretary of Revenue and Taxation for their review. Within 30 days after the receipt of the application the secretaries of Economic Development and Revenue and Taxation shall submit their recommendations (the secretary of Revenue and Taxation shall submit a Letter of No Objection in lieu of a Letter of Recommendation) in writing to the assistant secretary of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4111. Application Shall be Presented to the Board of Commerce and Industry

The Office of Commerce and Industry shall present an agenda of applications to the Board of Commerce and Industry with the written recommendations of the secretaries of Economic Development and Revenue and Taxation and an endorsement resolution of the local taxing authorities and shall make recommendations to the board based upon its findings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4113. Board of Commerce and Industry Enters Into Contract

Upon approval of the application, by the governor and the Joint Legislative Committee on the Budget, the Board of Commerce and Industry shall enter into contract with the applicant for exemption of the taxes allowed by R.S. 46:813.1. A copy of the contract shall be sent to the Department of Revenue and Taxation and to the local political subdivision's tax authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4115. Rebates on Sales/Use Taxes

A. The contract will not authorize the applicant to make tax-free purchases from vendors.

B. State sales and use tax rebates shall be filed according to official Department of Revenue and Taxation procedures.

C. Local sales and use tax rebates shall be filed in the manner prescribed by the local taxing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4117. Violations of Rules, Statutes, or Documents

On the initiative of the Board of Commerce and Industry or whenever a written complaint of violation of the terms of the rules, the contract documents, or the statutes is received, the assistant secretary for the Office of Commerce and Industry shall cause to be made a full investigation on behalf of the board, and shall have full authority for such investigation including, but not exclusively, authority to call for reports or pertinent records or other information from the contractors. If the investigation substantiates a violation, the assistant secretary may present the subject contract to the board for formal cancellation. The businesses with contracts shall then remit any and all taxes that would have been imposed but for the issuance of a contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4119. Affidavits Certifying Eligibility Filed Annually

On January 15th of each year, the businesses with contracts will file an affidavit with the Office of Commerce and Industry certifying that the business still qualifies under §4104. If the affidavit shows the company no longer qualifies under this rule, the Board of Commerce and Industry shall cancel the contract and no further rebates or credits will be granted. The Department of Commerce will notify the Department of Revenue and Taxation within 30 days after revocation of a contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4121. Appeals Procedure

Applicants who wish to appeal the action of the Board of Commerce and Industry must submit their appeals along with any necessary documentation to the Office of Commerce and Industry at least 30 days prior to the meeting of the screening committee of the Board of Commerce and Industry during which their appeals will be heard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4123. Income and Franchise Tax Requirements

In order for a business to benefit from the income and corporate franchise tax benefits of this Chapter, an estimated five year income and franchise tax liability must be provided to the Board of Commerce and Industry by the applicant. This information will be used only to estimate the economic impact of the project to the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4125. Hearing Procedures

Applicants and/or their representatives will be notified of the date of the Board of Commerce and Industry meeting at which their application will be considered. The applicant should have an officer of authority present who is able to answer any questions the Board of Commerce and Industry might have about the information contained in the application. In the event there is not a representative present, the application may be deferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4127. Contract Execution Procedures

A. When an application is approved, a contract is supplied to the applicant by the Office of Commerce and Industry. The applicant must execute the contract and return it within 30 days of receipt. Certified copies will then be forwarded to the proper local governmental taxing authority and to the Department of Revenue and Taxation.

B. The taxing authorities of the local governmental subdivision issuing the endorsement resolution should be contacted to determine their procedure for rebating their sales/use tax.

C. Applicants will be contacted by the staff of the Department of Revenue and Taxation who will advise the proper procedures to follow in order to obtain the state sales/use tax rebate.

D. Notification of any change which may affect the contract should be made to the Office of Commerce and Industry. This includes any changes in the ownership or operational name of the firm holding a contract or the abandonment of operation. Failure to report can constitute a breach of contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:811 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

Interested persons may submit written comments on the proposed rules through 5 p.m. February 26, 1993 to Steven L. Windham, Coordinator, Financial Incentives Division, Office of Commerce and Industry, Box 94185, Baton Rouge, LA 70804-9185, telephone (504) 342-5399.

R. Paul Adams
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: LA Biomedical Research and Development Park Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The Department of Economic Development will have no additional implementation costs/savings. Any implementation costs/savings can not be determined.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
To the extent that the Biomedical Research and Development Park Program will result in new business formation or expansion that would not have otherwise occurred, state or local governmental units may experience and increase in revenue collections from the increase in business activity. However, to the extent that eligible business already exist within the boundaries of the park or relocate into the boundaries of the park, state and local governmental units may experience a reduction in tax collections, because certain expenditures that would likely occur anyway would then be eligible for tax reductions.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Companies and/or businesses may experience an increase revenues as a result of the reduced tax expenses resulting from this program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
To the extent the Biomedical Research and Development Park Program encourages new business formation or expansion that would not have otherwise occurred, there may be a beneficial effect to the state and its citizens by the stimulation of the states economy.

R. Paul Adams
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Office of Commerce and Industry Division of Financial Incentives

University Research and Development Parks Program (LAC 13:I.Chapter 43)

Notice is hereby given that the Department of Economic Development, Office of Commerce and Industry, intends to adopt the following rule to implement Act 990 of the 1992 Regular Session of the Louisiana Legislature.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 43. Louisiana University Research and Development Parks Program

§4301. General

Relief from taxation may be granted as provided under R.S. 17:3389(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4303. Definitions

For purposes of these rules, the following terms shall have the meaning hereafter ascribed to them, unless the context clearly indicates otherwise:

A. Concerns which are technology-based or innovative growth oriented are defined as "companies engaged in the application of science especially to industrial or commercial objectives. Such companies should be engaged in the development, manufacture, or sale of products that emerge from or depend upon the practical application of scientific or technological advances."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4304. Qualifications

To qualify for the Louisiana University Research and Development Parks Program tax incentives an applicant must be a "concern", as defined in this rule, must provide documentation evidencing its location in a park area, must document its association with a Louisiana public or regionally accredited independent university, must document the quality of its research facility, and must demonstrate, by written statement, its viability to contribute to the improved scientific information and technology available to the citizens of Louisiana and its ability, through improved economic conditions, to stimulate the creation of jobs and the development of the park area. The statement should include all factors which are relevant to the continued and expanded operations of the applicant including, but not limited to, the following:

1. The benefits to the state in terms of continued employment opportunities, expenditures for goods and services, contributions

to the revenue base of the state and local governments, and the creation of new and additional permanent jobs;

2. competitive conditions existing in other states or in foreign nations;

3. the economic viability of the applicant, and the effect of any tax exemptions or credits on economic viability;

4. the effects on the applicant of temporary supply and demand conditions;

5. the effect of casualties and/or natural disasters;

6. the effects of United States and foreign trade policies;

7. the effect of federal laws and regulations bearing on the economic viability within the state of the applicant;

8. the competitive effect of like or similar exemptions or credits granted to other applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4307. Filing of Applications

A. An "Advance Notification" of intent to file for the Louisiana University Research and Development Parks tax incentives shall be filed prior to the beginning of construction, acquisition of equipment, and/or occupation of facilities. An advance notification fee of \$100 shall be submitted with the prescribed advance notification form. Any purchases made prior to the filing of the advance notification may not be eligible for exemption and/or credit. Applications must be filed with the Office of Commerce and Industry, Box 94185, Baton Rouge, LA 70804-9185 on the prescribed form, along with any required additional information, within six months after the beginning of construction or three months before completion of construction or the beginning of operations, whichever occurs later.

B. Applications must be submitted to the Office of Commerce and Industry at least 60 days prior to the Board of Commerce and Industry meeting where it will be heard. An application fee shall be submitted with the application based on 0.2 percent of the estimated total amount of taxes to be rebated, exempted, or credited. In no case shall an application fee be smaller than \$200 and in no case shall a fee exceed \$5,000 per project. A fee of \$50 shall be charged for the renewal of a contract.

C. Within six months after construction has been completed, the applicant from the establishment shall file, on the prescribed form, an affidavit of final cost showing complete cost of the project, together with a fee of \$100 for the plant inspection which will be conducted by the Office of Commerce and Industry. Upon request by the Office of Commerce and Industry, a map showing location of all facilities claiming exemptions in the project will be submitted in order that the property for which rebates are claimed may be clearly identified.

D. The Office of Commerce and Industry reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the estimated exemptions or the fee submitted is incorrect. The document may be resubmitted with the correct fee and/or information. Documents will not be considered officially received and accepted until the appropriate

fee is submitted. Processing fees, for advance notifications, applications, renewals, or affidavits of final cost which have been accepted, will not be refundable.

E. The applicant proposing a project with a construction period greater than two years must file a separate application for each construction phase. An application fee shall be submitted with each application filed, based on the fee schedule in §4307.B above.

F. The Office of Commerce and Industry is authorized to grant a six-month extension for filing of the application. An authorized representative of the Board of Commerce and Industry must approve further extension. All requests for extension must be in writing and must state why the extension is requested.

G. Please make checks payable to: Louisiana Office of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4309. Recommendations of the Secretaries of Economic Development and Revenue and Taxation

The Office of Commerce and Industry shall forward the application with its recommendations to the secretary of Economic Development and the secretary of Revenue and Taxation for their review. Within 30 days after the receipt of the application the secretaries of Economic Development and Revenue and Taxation shall submit their recommendations (the secretary of Revenue and Taxation shall submit a Letter of No Objection in lieu of a Letter of Recommendation) in writing to the assistant secretary of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4311. Application Shall be Presented to the Board of Commerce and Industry

The Office of Commerce and Industry shall present an agenda of applications to the Board of Commerce and Industry with the written recommendations of the secretaries of Economic Development and Revenue and Taxation and an endorsement resolution of the local taxing authorities and shall make recommendations to the board based upon its findings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4313. Board of Commerce and Industry Enters Into Contract

Upon approval of the application, by the governor and the Joint Legislative Committee on the Budget, the Board of Commerce and Industry shall enter into contract with the applicant for exemption of the taxes allowed by R.S. 17:3389. A copy of the contract shall be sent to the Department of Revenue and Taxation and to the local political subdivision's tax authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4315. Rebates on Sales/Use Taxes

A. The contract will not authorize the applicant to make tax-free purchases from vendors.

B. State sales and use tax rebates shall be filed according to official Department of Revenue and Taxation procedures.

C. Local sales and use tax rebates shall be filed in the manner prescribed by the local taxing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4317. Violations of Rules, Statutes, or Documents

On the initiative of the Board of Commerce and Industry or whenever a written complaint of violation of the terms of the rules, the contract documents, or the statutes is received, the assistant secretary for the Office of Commerce and Industry shall cause to be made a full investigation on behalf of the board, and shall have full authority for such investigation including, but not exclusively, authority to call for reports or pertinent records or other information from the contractors. If the investigation substantiates a violation, the assistant secretary may present the subject contract to the board for formal cancellation. The businesses with contracts shall then remit any and all taxes that would have been imposed but for the issuance of a contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4319. Affidavits Certifying Eligibility Filed Annually

On January 15th of each year, the businesses with contracts will file an affidavit with the Office of Commerce and Industry certifying that the business still qualifies under §4304. If the affidavit shows the company no longer qualifies under this rule, the Board of Commerce and Industry shall cancel the contract and no further rebates or credits will be granted. The Department of Commerce will notify the Department of Revenue and Taxation within 30 days after revocation of a contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4321. Appeals Procedure

Applicants who wish to appeal the action of the Board of Commerce and Industry must submit their appeals along with any necessary documentation to the Office of Commerce and Industry at least 30 days prior to the meeting of the screening committee of the Board of Commerce and Industry during which their appeals will be heard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4323. Income and Franchise Tax Requirements

In order for a business to benefit from the income and corporate franchise tax benefits of this Chapter, an estimated five year income and franchise tax liability must be provided to the Board of Commerce and Industry by the applicant. This information will be used only to estimate the economic impact of the project to the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4325. Hearing Procedures

Applicants and/or their representatives will be notified of the date of the Board of Commerce and Industry meeting at which their application will be considered. The applicant should have an officer of authority present who is able to answer any questions the Board of Commerce and Industry might have about the information contained in the application. In the event there is not a representative present, the application may be deferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

§4327. Contract Execution Procedures

A. When an application is approved, a contract is supplied to the applicant by the Office of Commerce and Industry. The applicant must execute the contract and return it within 30 days of receipt. Certified copies will then be forwarded to the proper local governmental taxing authority and to the Department of Revenue and Taxation.

B. The taxing authorities of the local governmental subdivision issuing the endorsement resolution should be contacted to determine their procedure for rebating their sales/use tax.

C. Applicants will be contacted by the staff of the Department of Revenue and Taxation who will advise the proper procedures to follow in order to obtain the state sales/use tax rebate.

D. Notification of any change which may affect the contract should be made to the Office of Commerce and Industry. This includes any changes in the ownership or operational name of the firm holding a contract or the abandonment of operation. Failure to report can constitute a breach of contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3389 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Division of Financial Incentives, LR 19:

Interested persons may submit written comments on the proposed rules through 5 p.m. February 26, 1993 to Steven L. Windham, Coordinator, Financial Incentives Division, Office of

Commerce and Industry, Box 94185, Baton Rouge, LA 70804-9185, Telephone (504)342-5399.

R. Paul Adams
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**Rule Title: LA University Research and Development
Parks Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

The Department of Economic Development will have no additional implementation costs/savings. Any implementation costs/savings cannot be determined.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

To the extent that the University Research and Development Parks Program will result in new business formation or expansion that would not have otherwise occurred, state or local governmental units may experience and increase in revenue collections from the increase in business activity. However, to the extent that existing businesses are made eligible for this program as a result of the Board of Commerce and Industry's decisions as to the location of University Research Parks, state and local governmental units may experience a reduction in tax collections because certain expenditures that would likely occur anyway would then be eligible for tax reductions.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Companies and/or businesses may experience an increase revenues as a result of the reduced tax expenses resulting from this program.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

To the extent the Louisiana University Research and Development Parks Program encourages new business formation or expansion that would not have otherwise occurred, there may be a beneficial effect to the state and its citizens by the stimulation of the state's economy.

R. Paul Adams
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

Credit Union Organizations (LAC 10:II.Chapter 1)

Pursuant to R.S. 49:950 et seq., the commissioner of Financial Institutions gives notice of his intent to adopt a rule for the purpose of establishing prudential standards for state-chartered credit unions that invest in and make loans to credit union service organizations, authorized by R.S. 6:644(B)(3)(d) and R.S. 6:656(A)(4). The intended action of the agency, namely, adopting and promulgating the proposed rule, complies with R.S. 6:121(B)(1), R.S. 6:644(B)(3)(d) and R.S. 6:656(A)(4), laws administered by the Office of Financial Institutions.

Title 10 BANKS AND SAVINGS AND LOANS Part II. Credit Unions

Chapter 1. General Provisions

§103. Credit Union Service Contracts

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:

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

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

unions have invested in or made loans to an organization pursuant to Section 644(B)(3)(d) or 656(A)(4). The rule does not regulate credit union service organizations directly; instead, it establishes conditions of state-chartered credit union investments in and loans to such organizations.

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:

§107. Definitions

Affiliated Credit Unions—those credit unions which have either invested in or made loans to a credit union service organization.

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

Official—any director or committee member.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:

§109. Regulatory Provisions

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

unimpaired capital and surplus as of its last calendar year-end financial report.

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

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

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

3. Association. A state-chartered credit union may participate as a member of a credit union service organization structured as an association. A state-chartered credit union investing in or lending to such an association must take all steps necessary to ensure that it will not be held liable for any more than its proportionate share of the obligations of the association.

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

D. Customer Base. A state-chartered credit union may invest in or loan to a credit union service organization only if the organization primarily serves credit unions and/or the membership of affiliated credit unions, as defined in §107.

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

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

2. Financial Services

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

b. Additional services or activities must be approved by

the commissioner of Financial Institutions before a state-chartered credit union may invest in or loan to the credit union service organization that offers the service or activity.

F. Conflict of Interest

1. Individuals who serve as officials of, or senior management employees of an affiliated state-chartered credit union, as defined in §107, and immediate family members of such individuals, may neither serve a credit union service organization in any capacity nor receive any salary, commission, investment income, or other income or compensation from a credit union service organization, either directly or indirectly, or from any person being served through the credit union service organization. This provision does not prohibit an official or senior management employee of a state-chartered credit union from serving on the board of directors of a credit union service organization, provided the individual is not compensated by the credit union service organization.

2. The prohibition contained in Subsection F.1 of this section also applies to any affiliated state-chartered credit union employee not otherwise covered if that employee is directly involved in dealing with the credit union service organization, unless the board of directors determines that the employee's position does not present a conflict of interest.

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

G. Accounting Procedures; Access to Information

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

2. Credit union service organization accounting; audits and financial statements; OFI access to books and records.

3. An affiliated state-chartered credit union must obtain written agreements from a credit union service organization, prior to investing in or lending to the organization, that the organization will:

a. follow GAAP;

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

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

i. Notwithstanding the examinations fees, authorized by R.S. 6:646(B)(4), the commissioner may charge a fee of \$30 per hour per examiner for the purpose of determining whether an affiliated state-chartered credit union and the credit union service organization are in compliance with the Louisiana Credit Union Law and this rule. The cost of any such compliance review shall be billed directly to the credit union service organization.

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

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

HISTORICAL NOTE: Adopted by the Department of Economic Development, Office of Financial Institutions, LR 19:

In conformity with R.S. 49:953(A)(1)(b)(i), the proposed rule is to become effective on May 1, 1993, or as soon thereafter as is practical upon publication in the *Louisiana Register*.

All interested persons are invited to submit written or oral comments on the proposed regulation. Such comments should be submitted no later than March 1, 1993, at 9 a.m. to Sidney E. Seymour, Chief Examiner, Office of Financial Institutions, Box 94095, or in person at 8401 United Plaza Boulevard, Suite 200, Baton Rouge, Louisiana 70804-9095.

A public hearing on this proposed rule will be held on Monday, March 1, 1993, in the Fourth Floor Board Room, 8401 United Plaza Boulevard., Baton Rouge, LA 70809, beginning at 9 a.m. and continuing thereafter until all interested persons have been afforded an opportunity to be heard. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at the hearing.

Larry L. Murray
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Investments in and Loans to Credit Union
Service Organizations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

The estimated implementation cost for this regulation will be initial rule notification expense of \$120. It is anticipated that this agency will continue to utilize existing personnel and equipment in the implementation process, and the agency estimates that there will be no additional requirements for new equipment, employee costs, or professional services.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

The proposed rule will result in a slight decrease of \$40 in the first year and nominal increases of \$80 in state revenues in subsequent years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)

The estimated costs to directly affected persons or non-governmental groups will remain largely unaltered by the implementation of this rule. The rule establishes prudential standards for Louisiana state-chartered credit unions that invest in or make loans to credit union service organizations. This rule implements certain statutes by addressing various issues, including the structure of the organizations, their customer base, and the range of services and activities that they may provide. The costs of implementation will involve legal, accounting, and

compliance review costs. The benefits to be derived would include: limiting potential exposure to no more than the loss of funds invested in or lent to the credit union service organization, preventing any possible conflicts of interest; ensuring proper accounting practices are utilized; and providing access by this office to the books and records of all such organizations.

IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)

There will be no impact on competition or employment in the public or private sector.

Larry L. Murray
Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Racing Commission

Classification of Foreign Substances
by Category (LAC 35:I.1795)

The Racing Commission hereby gives notice in accordance with law that it intends to adopt the rule entitled Classification of Foreign Substances by Category (LAC 35:I.1795) the text of which appears in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

The domicile office of the Racing Commission is open from 8 a.m. to 4:30 p.m. and interested parties may contact Paul D. Burgess, Executive Director, C. A. Rieger, Assistant Executive Director, or Tom Trenchard, Administrative Manager, at 504-483-4000 (LINC 635-4000), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 5, 1993, to 320 North Carrollton Avenue, Suite 2B, New Orleans, LA 70119-5111.

Oscar J. Tolmas
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Classification of Foreign Substances by
Category LAC 35:I.1795

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

There are no costs to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

There is no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)

The proposed rule benefits horsemen by classifying drugs and substances which are not permitted in race horses. By using guidelines established by the Association of Racing Commissioners International, Inc., penalties may be applied uniformly to those persons violating applicable rules. Adopted in conjunction with new rule LAC 35:I.1797 "Penalty Guidelines".

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Paul D. Burgess
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Medication in Two-Year-Olds (LAC 35:I.1722)

The Racing Commission hereby gives notice in accordance with law that it intends to amend the rule entitled Medication of Two-Year-Olds (LAC 35:I.1722), the text of which appears in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m. and interested parties may contact Paul D. Burgess, Executive Director, C.A. Rieger, Assistant Executive Director, or Tom Trenchard, Administrative Manager at (504)483-4000 (LINC 635-4000), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 5, 1993, to 320 North Carrollton Avenue, Suite 2B, New Orleans, LA 70119-5111.

Oscar J. Tolmas
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Rule Title: Medication in Two-Year-Olds

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits horsemen by allowing bleeder medication in two-year-old horses. Until this time, no medication whatsoever was permitted in two-year-olds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Paul D. Burgess
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Penalty Guidelines (LAC 35:I.1797)

The Racing Commission hereby gives notice in accordance with law that it intends to adopt the rule entitled Penalty Guidelines (LAC 35:I.1797), the text of which appears in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

The domicile office of the Racing Commission is open from 8 a.m. to 4:30 p.m. and interested parties may contact Paul D. Burgess, Executive Director, C.A. Rieger, Assistant Executive Director, or Tom Trenchard, Administrative Manager, at (504) 483-4000 (LINC 635-4000), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 5, 1993, to 320 North Carrollton Avenue, Suite 2B, New Orleans, LA 70119-5111.

Oscar J. Tolmas
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Rule Title: Penalty Guidelines

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule benefits horsemen by assigning penalties to corresponding classifications of drugs and substances classified in (new) rule LAC 35:I.1795, which are not permitted in race horses. By using guidelines

established by the Association of Racing Commissioners International, Inc., penalties may be applied uniformly to those persons violating applicable rules. Adopted in conjunction with new rule LAC 35:I.1795 "Classification of Foreign Substances by Category."

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Paul D. Burgess
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Two-Year-Olds (LAC 35:I.1503)

The Racing Commission hereby gives notice in accordance with law that it intends to amend the rule regarding two-year-olds permitted medication (LAC 35:I.1503), the text of which appears in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

The domicile office of the Racing Commission is open from 8 a.m. to 4:30 p.m. and interested parties may contact Paul D. Burgess, Executive Director, C.A. Rieger, Assistant Executive Director, or Tom Trenchard, Administrative Manager, at (504)483-4000 (LINC 635-4000), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 5, 1993, to 320 North Carrollton Avenue, Suite 2B, New Orleans, LA 70119-5111.

Oscar J. Tolmas
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Rule Title: Two-Year-Olds

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits horsemen by allowing bleeder medication in two-year-old horses. Until this time, no medication whatsoever was permitted in two-year-olds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Paul D. Burgess
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Violations of Permitted Medication Rules (LAC 35:I.1511)

The Racing Commission hereby gives notice in accordance with law that it intends to amend Violations of Permitted Medication Rules (LAC 35:I.1511), the text of which appears in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

The domicile office of the Racing Commission is open from 8 a.m. to 4:30 p.m. and interested parties may contact Paul D. Burgess, Executive Director, C.A. Rieger, Assistant Executive Director, or Tom Trenchard, Administrative Manager, at (504)483-4000 (LINC 635-4000), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 5, 1993, to 320 North Carrollton Avenue, Suite 2B, New Orleans, LA 70119-5111.

Oscar J. Tolmas
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Rule Title: Violations of Permitted Medication Rules

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits owners by omitting the clause of withholding purse money, trophies, etc. from owners if a violation of the permitted medication rules is found.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Paul D. Burgess
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Bulletins 746 and 1882

In accordance with the R.S. 49:950 seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 746, Teacher Certification Standards and Regulations and Bulletin 1882, Administrative Leadership Academy Guidelines that when referencing "LEAD" to add: "...LEAD or other comparable training programs approved by the board".

Bulletin 746

Under certification requirements for Elementary School Principal listed on pages 62 and 63, under "F" on page 63, and after Project LEAD, add: "or other comparable training programs approved by the board".

Under certification requirements for Secondary School Principal listed on pages 64 and 65, under "F" on page 65, and after Project LEAD, add: "or other comparable training programs approved by the board".

Bulletin 1882

On page 3, under LEAD, wherever the word LEAD appears, add: "... or other comparable training programs approved by the board".

AUTHORITY NOTE: R.S. 17:3761-3764

Interested persons may comment on the proposed rule until 4:30 p.m., March 10, 1993 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**Rule Title: ALA/Guidelines--Bulletin 1882 and
Bulletin 746 Revision**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There will be a cost of approximately \$783 to print 4000 copies of Bulletin 1882. In addition, it will cost approximately \$50 (printing and postage) to disseminate the policy for inclusion in Bulletin 746, Louisiana Standards for State Certification of School Personnel.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

There are no additional cost or economic benefits to the administrators affected.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Amendment to Bulletin 1822
Competency Based Postsecondary Curriculum Guides**

In accordance with the R.S. 49:950 et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted revisions to titles and lengths of programs printed in Bulletin 1822, Competency Based Postsecondary Curriculum Guides as stated below:

CURRENTLY APPROVED

TITLE	LENGTH
Auto Body Repair	2025 hrs., 18 mo.
Automotive Technician	2700 hrs., 24 mo.
Computer Technology	2363 hrs., 21 mo.
Diesel Mechanics	2700 hrs., 24 mo.
Electrician	1688 hrs., 15 mo.
Industrial Machine Shop	1800 hrs., 16 mo.
Welding	2025 hrs., 18 mo.
Child Care	1350 hrs., 12 mo.

ADOPTED REVISION

TITLE	LENGTH
Collision Repair Technology	1872 hrs., 18 mo.
Automotive Technology	2496 hrs., 24 mo.
Computer Technology	2496 hrs., 24 mo.
Diesel Mechanics	2496 hrs., 24 mo.
Electrician	1688 hrs., 16 mo.
Industrial Machine Shop	1872 hrs., 18 mo.
Welding	1872 hrs., 18 mo.
Child Care	1248 hrs., 12 mo.

NEW INSTRUCTOR GUIDES

Building Maintenance	936 hrs., 9 mo.
Commercial Diving	360 hrs., 12 wks.
Golf Course Technician	1416 hrs. 12 mo.

AUTHORITY NOTE: R.S. 17:7

Interested persons may submit comments on the proposed rule until 4:30 p.m., March 10, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**Rule Title: Amendments to Bulletin 1822, Competency
Based Postsecondary Curriculum Outlines**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

In 1983, the Board of Elementary and Secondary Education adopted the implementation of uniform course titles and time requirements. These amendments to this bulletin are updates on title names, course lengths and content. The cost to implement this change would be approximately \$75. This would be for printing and postage to mail out the revisions.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

This amendment is an update to Bulletin 1822, "Competency-Based Postsecondary Curriculum Outlines". When updates occur, the length of attendance for various courses may be increased or decreased. As courses are increased, the technical institutes will realize additional revenue and as they are decreased, will realize a decrease in revenue.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

As courses are increased or decreased in length, the technical institute students will realize an increase or decrease in the amount of tuition costs. However, a more adequately trained worker will be available for employment in Business and Industry.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

All technical education students will receive the same minimum curriculum from each technical institute attended. If a student transfers from one institute to another, there will be no lost time. The technical institutes will be producing better products as a result of up-to-date curricula.

Marilyn J. Langley
Deputy Superintendent
Management & Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Revocation of Teaching Certificate for a Felony Offense
(LAC 28:I.903)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to its Policy on Revocation of Teaching Certificate for a Felony Offense. This is also an amendment to LAC 28:I.903.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
CHAPTER 9. Bulletins, Regulations, and State Plans
§903. Teacher Certification Standards and Regulations**

* * *

E. Revocation of Certificates

1. Revocation for a Felony Offense

* * *

d. Delete entire paragraph which is stated below:

"The provisions of this Section shall apply only to teachers who are not under contract with a city or parish school board at the time of revocation."

* * *

AUTHORITY NOTE: R.S. 17:7

Interested persons may comment on the proposed rule until 4:30 p.m., March 10, 1993 to: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**Rule Title: Revocation of Teaching Certificate
for Felony Offenses**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

The adoption of this amendment will cost the Department of Education approximately \$50 (printing and postage) to disseminate the amended policy.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

This policy amendment will have no effect on revenue collection.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

The amendment to this policy will authorize the Board of Elementary and Secondary Education to conduct a revocation hearing whenever a person receives a final conviction for a felony offense although the teacher is under contract with a city or parish school board.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The proposed action will have a minimal effect on competition and employment.

Marlyn Langley
Deputy Superintendent
of Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary

Permit Processing (OS12) (LAC 33:I.Chapter 15)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2022.B (Act 686, 1990 Regular Session) et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.Chapter 15, (OS12).

These regulations will establish procedures for processing and review of permit applications including completeness reviews, final determinations and deadlines. The completeness reviews will be no more than 110 days and the final determinations will be generally no longer than 410 days.

These proposed regulations are to become effective on April 20, 1993, or upon publication in the *Louisiana Register*.

A public hearing will be held February 25, 1993, at 1:30 p.m. in the DEQ Headquarters Building, First Floor Auditorium, Room 1400, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Friday, February 26, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log OS12.

TITLE 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Department of Environmental Quality- Departmental Administrative Procedures

Chapter 15. Permit Review

§1501. Definitions

For all purposes of this regulation, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

Department—Louisiana Department of Environmental Quality.

Extraordinary Public Response—the quality and/or quantity of comments which are relevant and material to the permit which is being considered and requires additional time for agency review.

Facility—a pollution source or any public or private property or facility where an activity is conducted which is required to be permitted by the department.

Final Decision—a final decision to issue, deny, modify or revoke and reissue, or terminate a permit.

Substantial Permit Modification—changes that substantially alter the permitted facility or its operation as follows:

1. for a hazardous waste permit, the Class III modification defined at LAC 33:V.321.C.3 and 4;

2. for a solid waste permit, the modification defined at LAC 33:VII.1105.G.4;

3. for a Louisiana Water Discharge Permit System (LWDPS) permit, the modification not processed as a minor modification under LAC 33:IX.307.D; and

4. for an air quality permit, the modification which results in a substantial change in the amount of any regulated emission or any air pollutant not previously emitted under the terms of the permit being modified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:

§1503. Review of Permit Applications and Substantial Permit Modifications

A. Completeness Review

1. Within 60 days after submittal of a permit application for new facilities or an application for substantial permit modifications, the department shall perform a completeness review and submit written notification to the applicant of any deficiencies. Permit application forms and checklists of required information in the permit application review process shall be provided to the applicant upon request.

2. The applicant shall respond to the notice of deficiency within 30 days after receipt of the notice of deficiency. This response shall be deemed complete only if it contains all of the information required by the department to complete the application review, unless otherwise provided for under LAC 33:I.1503.E.

3. Within 110 days from the date a permit application is submitted, the department shall:

a. issue a letter of completeness;

b. initiate enforcement action as provided in R.S. 30:2025; and/or

c. issue a notice of intent to deny the permit based on an incomplete application.

4. When the department determines that the application is complete, the department will provide written notification to the applicant. Within 30 days after receipt of a letter of completeness, the applicant shall publish a notice, provided by the department, of the completeness determination in a major local newspaper of general circulation and submit proof of publication to the department.

B. Technical Review

1. If at any time during the application review process the application is found to contain technical deficiencies, the department shall provide written notice to the applicant and require a response within a specified time.

2. The applicant shall respond to the notice of deficiency within the time specified in the notice. This response shall be deemed adequate only if it contains all of the information specified in the notice of deficiency and required by the department to complete the technical review of the application.

3. Applications undergoing technical review shall not be subject to rule changes that occur during the technical review unless such changes are made in accordance with R.S. 49:953(B)(1) or are required by federal law or regulation to be incorporated prior to permit issuance. However, such a rule

change made prior to the issuance of the permit may constitute grounds for a modification of the final permit.

C. Final Decision

1. The secretary or his designee shall issue a final decision within 410 days from the submission date of the application.

2. The secretary or his designee may extend the deadline for a final decision for up to a total of 45 days for the following purposes:

a. to provide additional time for the applicant to revise or supplement the application to address technical deficiencies in the application;

b. to allow for adjudicatory or judicial proceedings under R.S. 30:2024; or

c. to consider comments received at a public hearing in the case of an extraordinary public response.

D. Exceptions. Notwithstanding any other provisions of this Chapter to the contrary, the following requirements shall pertain to all applications for permits relating to oil and gas wells and to pipelines.

1. Within 14 workdays after submittal of a permit application, the department shall issue notification of a completeness determination to the applicant.

2. If the application is not deemed complete, the department shall notify the applicant in writing and provide a list of the application's specific deficiencies.

3. Within 60 workdays after notification to the applicant of a complete permit application, the secretary or his designee shall issue a final decision to grant or to deny the permit.

4. In the event of a permit denial, the secretary or his designee shall provide written reasons for the decision to all parties.

5. If the secretary or his designee does not grant or deny the application within the time period provided for herein, the applicant may file a rule as provided for in R.S. 49:962.1.

E. Extensions. A request for an extension of a deadline established by this Section may be submitted in writing by the permit applicant or by the secretary or designate. The request shall specify the reasons and any special conditions that support a deadline extension. Written responses to all extension requests shall be submitted to the requestor within 10 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
Rule Title: Permit Review**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

As this rule will require departmental permit staff to expedite permit application completeness reviews and final

decisions in order to meet established deadlines, the permit sections will require additional staff to handle these expedited requirements. The department has encountered problems filling and maintaining permit processing positions. The estimated need for additional positions would thus assume that all authorized positions are filled. The need for 25 additional positions is anticipated as a result of this rule. Based upon obtaining 25 additional positions, additional costs to DEQ for the staff and associated costs are estimated at \$786,432 for FY '92-93, \$711,387 for FY '93-94, and \$737,339 for FY '94-95.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

As this rule will require departmental permit staff to expedite permit application completeness reviews and final decisions in order to meet established deadlines, it should reduce in some cases the amount of time required to secure a permit. This should result in economic benefits to certain permit applicants due to shorter application processing times; however, such benefits will vary greatly from case-to-case and are extremely difficult to quantify and accurately project.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

No significant effect of this proposed amendment on competition and employment is anticipated.

James B. Thompson, III
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Division of Administration
State Land Office**

**Repeal and Repromulgation of State Land Office
Rules and Regulations
(LAC 43:Parts I, V, and XXVII)**

Act 282 of the 1989 Regular Legislative Session transferred the duties of the Register of State Lands and the State Land Office from the Office of the Secretary, Department of Natural Resources to the Office of the Governor, Division of Administration. Repeal and repromulgation of the following rules reflect this transfer. The rules for the State Land Office will be repealed under Part I - Office of the Secretary and repromulgated under Part XXVII - State Lands.

Act 178 of the 1992 Regular Legislative Session authorized the State Land Office to collect a fee that is presently collected by the Office of Mineral Resources, Department of Natural

Resources for a Notice of Mineral Lease Sale booklet. The repeal of LAC 43:V.103.D under the Office of Mineral Resources and repromulgation under the State Land Office as LAC 43:XXVII.2901.A merely transfers the collection of the \$120 annual fee for the Notice Book from Mineral Resources to the State Land Office as directed by Act 178 of 1992.

TITLE 43

NATURAL RESOURCES

Part I. Office of the Secretary

Chapter 5. State Lands

Repealed

Part V. Office of Mineral Resources

Chapter 1. Administrative Division

§103. Fees

D. Repealed

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session 1988.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 14:544 (August 1988), repealed by the Office of the Governor, Division of Administration, State Land Office, LR 19:

Part XXVII. State Lands

Chapter 21. Procedure and Requirements for Reclamation Projects

§2101. Class A and Class E Permits

A. Permits may be granted to owners of land contiguous to and abutting navigable waterbottoms belonging to the state to construct landfills either for the purpose of reclaiming or recovering land lost through erosion by action of the water body if said erosion occurred on and after July 1, 1921, or for the purpose of maintaining an encroachment on non-eroded state lands. A Class "A" permit shall be issued for reclamation of lands eroded on or after July 1, 1921. Lands reclaimed shall be subject to the procedures as set forth in "Boundary Agreements" of these rules and regulations. A Class "E" permit shall be issued for reclamation of non-eroded lands. Landfills constructed on non-eroded state lands shall be subject to the procedures as set forth in "Leases: Reclamation" of these rules and regulations.

B. Submitting Procedures. Applicant shall notify the commissioner of the Division of Administration in writing of his intent to apply for a permit for work contemplated. Such letter shall contain a description of the proposed physical work to be performed, materials to be used and identity of the body of water involved. Upon receipt of applicant's letter, the commissioner shall forward the appropriate permit form to the applicant with a copy of these regulations. Upon completion of the appropriate form the applicant shall:

1. apply to the governing authority of the parish or parishes within which the work or structures will be located for their approval or permit for the project;

2. apply to the U. S. Corps of Engineers for the appropriate federal permit, and in the event that the Corps of Engineers declines jurisdiction over the proposed work, and does not publish notice;

3. cause to have published at least once, notice of the application in the official journal of the parish or parishes.

C. Fees

1. An application for a Class A or E permit shall be

accompanied by a non-refundable administrative and processing fee of \$50;

2. in the event that review of the application requires special work in the field such as special field examination or survey, the applicant shall be required to pay for such special work, the price of which shall be fixed by the commissioner based on his estimate of the cost of special work to the state. The commissioner shall notify the applicant of the estimated cost of such special work and shall not proceed until the estimated cost of same is paid.

D. Application requirements for class A or E permits issued under Act 645 of 1978. Applications must be submitted in triplicate to the commissioner of the Division of Administration, and each application must include the following:

1. application form as provided by the Division of Administration;

2. approval of the parish governing authority for the project;

3. a certified deed of ownership* (of the lands contiguous to public lands);

4. if the applicant is not the owner, a certified copy of the deed or other instrument* under which the owner holds title plus written permission for the applicant to carry out the project. **NOTE:** Should the encroachment be located wholly upon state waterbottoms and not proximate to any bank or shore, no deeds of ownership or written permission need be furnished provided that the letter of intent contain details of ingress and egress for such structure;

5. map or plat showing:

a. location of the activity site including section, township, and range;

b. Louisiana grid coordinates of all corners and angle points;

c. name of waterway;

d. all applicable political (parish, town, city, etc.) boundary lines;

e. name of and distance of local town, community or other identifying location;

f. names of all roads in the vicinity of the site;

g. graphic scale;

h. north arrow;

6. plan view showing:

a. existing shorelines;

b. ebb and flood in tidal waters and direction of flow in rivers;

c. mean high water line;

d. mean low water line;

e. water depth around the project;

f. extent of land area reclaimed or filled shown in square feet;

g. extent of encroachment beyond applicable water lines;

h. waterward dimensions from an existing permanent fixed structure or object;

i. location of structures, if any, in navigable water immediately adjacent to the proposed activity;

7. elevation and/or section view showing:

a. same water elevations as in the plan view;

b. depth at waterward face of proposed work;

- c. dimensions from applicable water lines for proposed float or pile supported platform;
- d. graphic or numerical scale;
- e. detailed drawings of construction including plot plan, cross section and profile;
- 8. non-refundable administrative and processing fee of \$50.
- 9. letter of intent.

*Only one certified copy of deed or instrument is required.

E. Where a permit application contemplates any form of landfill or reclamation, the map or plat submitted must be prepared by a professional land surveyor currently registered by the State Board of Registration for Professional Engineers and Land Surveyors.

F. Verification of Work. Upon completion of the project, the applicant is required to submit verification of the work completed to the commissioner of the Division of Administration within 60 days. The applicant is required to submit a final certified map or plat prepared by a professional land surveyor currently registered by the State Board of Registration for Professional Engineers and Land Surveyors as verification.

G. Boundary Agreements and Leases

1. After fulfilling the requirements for verification of work completed pursuant to a reclamation permit, the applicant and the commissioner of the Division of Administration shall enter into an agreement fixing the definitive boundary between the reclaimed land area and the waterbottoms. No definitive boundary shall be fixed nor shall title be vested unless and until proof is made that the reclaimed land is raised to a minimum height of six inches above mean high water and is stabilized along the newly created bank or shore by masonry, concrete mats, riprap, sheet piling, bulkheads, or similar constructions to reasonably insure permanence as required by law.

2. Upon completion of a Class E permit construction and verification, a lease is required as follows:

a. After fulfilling the requirements for verification of work completed pursuant to a landfill the applicant and the commissioner of the Division of Administration shall enter into a lease agreement to operate or maintain the encroachment. Such leases will not be subject to competitive bidding except in those cases where the best interest of the state and applicant will be served. The consideration for such leases shall be based upon the size and nature of the encroachment. The lease shall be assessed at five percent of the appraised value of the land for noncommercial use and at 7.5 percent of the appraised value for commercial uses with a minimum fee of \$100 per year. The property will be reappraised at the expiration of the primary term of the lease.

b. Leases entered into shall be for a term of five years and subject to renewal by lessee for nine successive terms. In no case shall the maximum term of such leases exceed 50 years. At the end of a 50-year maximum period, lessees may apply for a new lease for the subject encroachment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1701-1714 and R.S. 41:1131.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 3:248 (May 1977), amended LR 5:8 (January 1979), LR 7:342 (July 1981), LR 12:440 (July 1986), LR 17:777 (August 1991), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:

Chapter 23. Procedures and Requirements for Permitting and Leasing Encroachments onto State Owned Property §2301. Class B, Class C and Class D Permits

A. A Class "B" Permit shall be issued to construct bulkheads or flood protection structures in proximity to the bank or shore. Permits and leases may also be granted for the construction and/or maintenance of commercial structures which are permanently attached to public lands by pilings or other means. Such structures shall include, but not be limited to wharves, piers, storage docks, camps, warehouses, residences, bulkheads, restaurants, dams, bridges, etc. A Class "C" Permit shall be issued to construct wharves and piers and a Class "D" Permit shall be issued for those structures other than wharves and piers. Exempted from permit and lease requirements are commercial and non-commercial wharves and piers less than 50 linear feet whose surface area does not exceed 150 square feet, unless part of another encroachment or unduly interferes with public interests, navigation or fishery. Structures constructed on state lands shall be subject to the procedures as set forth in "Leases: Structures" of these rules and regulations.

B. Submitting Procedures. Applicant shall notify the commissioner of the Division of Administration in writing of his intent to apply for a permit for work contemplated. Such letter shall contain a description of the proposed physical work to be performed, materials to be used and identity of the body of water involved. Upon receipt of applicant's letter, the commissioner shall forward the appropriate permit form to the applicant with a copy of these regulations. Upon completion of the appropriate form the applicant shall:

- 1. apply to the governing authority of the parish or parishes within which the work or structures will be located for their approval or permit for the project;
- 2. apply to the U. S. Corps of Engineers for the appropriate federal permit, and in the event that the Corps of Engineers declines jurisdiction over the proposed work, and does not publish notice;
- 3. upon request of the governing authorities of the parish cause to have published at least once, notice of the application in the official journal of the parish or parishes.

C. Fees

- 1. an application for a permit shall be accompanied by a non-refundable administrative and processing fee of \$10;
- 2. in the event that review of the application requires special work in the field such as special field examination or survey, the applicant shall be required to pay for such special work the price of which shall be fixed by the commissioner based on his estimate of the cost of special work to the state. The commissioner shall notify the applicant of the estimated cost of such special work and shall not proceed until the estimated cost of same is paid.

D. Application Requirements for Class B, C, OR D Permits. Applications must be submitted in triplicate to the commissioner of the Division of Administration, and each application must include the following:

- 1. application form as provided by the Division of Administration;
- 2. approval of the parish governing authority for the project,
- 3. a certified deed of ownership* (of the lands contiguous

to public lands);

4. if the applicant is not the owner, a certified copy of the deed or other instrument* under which the owner holds title plus written permission for the applicant to carry out the project. NOTE: Should the encroachment be located wholly upon state waterbottoms and not proximate to any bank or shore, no deed of ownership or written permission need be furnished provided that the letter of intent contain details of ingress and egress for such structure;

5. map or plat showing:

a. location of the activity site including section, township and range;

b. name of waterway;

c. all applicable political (parish, town, city, etc.) boundary lines;

d. name of and distance of local town, community or other identifying location;

e. names of all roads in the vicinity of the site;

f. graphic scale;

g. north arrow.

6. Plan view showing:

a. existing shorelines;

b. ebb and flood in tidal waters and direction of flow in rivers;

c. mean high water line;

d. mean low water line;

e. water depth around the project;

f. extent of encroachment beyond the applicable water lines;

g. waterward dimensions from an existing permanent fixed structure or object;

h. location of structures, if any, in navigable water immediately adjacent to the proposed activity.

7. Elevation and/or section view showing:

a. same water elevations as in the plan view;

b. depth at waterward face of proposed work;

c. dimensions from applicable water lines for proposed load or pile supported platform;

d. graphic or numerical scale;

e. detailed drawings of construction including plot plan, cross section and profile.

8. Non-refundable administrative and processing fee of \$10.

9. Letter of intent.

*Only one certified copy of deed or instrument is required.

E. If the proposed project falls under the United States Army Corps of Engineers jurisdiction and permit(s) are being sought from that agency, the applications submitted to the Corps of Engineers may be submitted to the Division of Administration in lieu of the above, providing that all copies are clear and legible and the Corps permit application does in fact contain all of the information described above.

F. Leases

1. All class C and D permits are accompanied by a lease agreement described as follows:

a. After fulfilling the requirements for a structure permit, the applicant and the commissioner of the Division of Administration shall enter into a lease agreement to operate or maintain the encroachment. Such leases will not be subject to

competitive bidding except in those cases where the best interest of the state and applicant will be served. The consideration for such leases shall be based upon the size and nature of the encroachment.

b. Annual rentals on leases for commercial wharves, piers, and other structures issued pursuant to R.S. 41:1201-1215 lying outside of the jurisdiction of deep water port commissions shall be levied at two cents per square foot of state owned land or waterbottom enclosed or utilized by the structures and associated vessels. Those lands so utilized shall include the pier, wharf or dock itself, all associated piles, dolphins, structures, and waters adjacent and contiguous to the above structures occupied by vessels docking at said structures. The waters so utilized by vessels and included in the lease shall be measured in 10 foot increments adjacent and adjoining the structures (10, 20 or 30 feet) depending upon the size of the vessels docking at that particular pier, dock or wharf. Any contiguous area of water where boats may be moored shall be assessed according to the following schedule:

i. boats less than 35 feet in length require a 10 foot wide berthing;

ii. boats 35 to 75 feet in length require a 20 foot wide berthing;

iii. boats greater than 75 feet in length require a 30 foot wide berthing.

2. In no instance shall the consideration be less than \$100 per annum.

3. Leases entered into shall be for a term of five years and subject to renewal by lessee for nine successive terms. In no case shall the maximum term of such leases exceed 50 years. At the end of a 50-year maximum period, lessees may apply for a new lease for the subject encroachment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1701-1714 and R.S. 41:1131.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 3:248 (May 1977), amended LR 5:8 (January 1979), LR 7:342 (July 1981), LR 12:440 (July 1986), LR 17:777 (August 1991), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19: Chapter 25. General Regulations Regarding all Permits

§2501. General Permit Conditions

A. Approval of Local and Other State Authorities. No permits shall be issued nor shall any work commence until the application has first been approved by the governing authority of the parish wherein the property is located, Office of Public Works, Department of Wildlife and Fisheries, State Mineral Board, Coastal Management Section (if the project is in the coastal zone) and such other parochial or state agencies which may have jurisdiction over such matter. Coordination and dissemination among the several agencies will be performed by the commissioner of the Division of Administration.

B. Objections and Public Hearings

1. Objections shall be received by the commissioner of the Division of Administration for a period of 30 days from date of published notice, to correspond with the delays established by the U. S. Corps of Engineers. In the event that opportunity for public hearing is deemed necessary by either the state, through the commissioner of the Division of Administration, or the U. S. Corps of Engineers, all efforts will be made by the

state to accommodate the applicant by holding one hearing together with the federal authorities at whatever time and place the latter stipulates.

2. At the end of the prescribed period for objections, or after the public hearing if necessary, the governing authority of the parish or parishes shall either approve or object to the application, with reasons, and forward their determination to the commissioner of the Division of Administration, together with all required attachments and evidence of publication of notice by either the Corps of Engineers or the applicant, for processing as provided herein.

C. Reasons for Denial or Limitation. No reclamation, encroachment or lease shall be allowed if in the determination of the Office of Public Works, Department of Wildlife and Fisheries, State Mineral Board or the commissioner of the Division of Administration, such activity would obstruct or hinder the navigability of any waters of the state, impose undue or unreasonable restraints on the state or public rights which have vested in such areas pursuant to Louisiana law, or result in unacceptable adverse impacts to the environment of the coastal zone, and to that extent the land area sought to be reclaimed, or the structure or construction, may be limited.

D. Hold Harmless. All permits and leases approved and issued hereunder shall be conditioned upon applicant's agreement to hold the State of Louisiana and her agencies and subdivisions harmless for applicant's acts or omissions in reclaiming and maintaining eroded lands and constructing or maintaining any structures and bulkheads, though the permit or lease for the same subsequently expires or is revoked.

E. Encumbrances. A permit will be issued subject to and encumbered with any right-of-way or servitude, or any mineral, geothermal, geopressure, or any other lease acquired or granted by the state for a lawful purpose while the reclaimed land was an eroded area. Nothing in these regulations shall prevent the leasing of state lands or waterbottoms for mineral or other purposes.

F. Maximum Permit Term. All permits issued pursuant to these provisions shall be effective for a period not to exceed two years from the date of issuance and shall thereupon expire. All work remaining or any additional work may be completed only by a new permit application.

G. Vested Rights. No permit or lease shall be construed to vest any proprietary rights or title in any private owner except as to lands actually reclaimed and maintained, pursuant to Act 645 of 1978. Eroded lands contiguous to the coast of the Gulf of Mexico as defined in the Decree of the United States Supreme Court dated July 16, 1975, in *United States vs. Louisiana*, No. 9 Original, may be reclaimed under reclamation permits, out to the coastline.

H. Copies to Local Governments. A copy of the permit issued, along with the pertinent plats attached and the documentation required to be submitted 60 days after completion of work shall be filed with the clerk of court of the parish or parishes affected. A copy of the above shall also be furnished the assessor of the parish or parishes for assessment purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1701-1714 and R.S. 41:1131.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 3:248 (May 1977), amended

LR 5:8 (January 1979), LR 7:342 (July 1981), LR 12:440 (July 1986), LR 17:777 (August 1991), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:

Chapter 27. Rights-of-Way

§2701. Granting of Rights-of-Way to Corporations or Individuals

A. Applicants are to use the state right-of-way form provided by the State Land Office. A special form is used for escrow agreement permits.

B. The right-of-way form must be submitted in triplicate with a legal size plat(s) attached to each copy.

C. The description contained in the right-of-way form must indicate section, township and range, or area and block number(s) if offshore; name of the body of water to be crossed; the size of the pipe and the length of the right-of-way in rods.

D. The plat(s) must reveal the following:

1. Station numbers at the mean low water elevation on a river; the station number at the mean high water elevation on a lake, bay or Gulf of Mexico; or station number at ingress and egress of state properties. Said plat, when illustrating the mean low water line of a river or the mean high water line of a lake or the Gulf, will be authoritative only as to the date of the application for calculation of the state's consideration. The limits of state property reflected on said plat are illustrative only and recognized solely and only for computing the fee for this grant, and are not intended and shall not be construed as determinative of actual title for the benefit of any adjoining owners, whether a grantee herein or a third party;

2. the section, township and range if in an area that has been surveyed;

3. the product to be transported;

4. the location of the pipeline with respect to the right-of-way.

E. Names of adjoining land owners cannot be shown on the plat unless necessary for legal description.

F. The right-of-way form must be accompanied by a letter of intent which shall contain the following information:

1. initiating and terminating point of the pipeline;

2. point of origination of product to be transported as a result of this construction;

3. capacity or if a loopline added capacity as a result of this construction;

4. estimated volume of product to be transported as a result of this construction;

5. a detail of construction;

6. pipe specifications including size, wall thickness and type;

7. the proposed and maximum operating pressures.

G. Where state mineral leases are traversed, an applicant will furnish the commissioner of the Division of Administration a copy of the letter of notification (with signed, certified returned receipt attached) which has been sent to the mineral lessees.

H. It is necessary that permission or clearance be obtained from the United States Corps of Engineers; State Office of Public Works, Department of Transportation and Development; Louisiana Department of Environmental Quality, Water Pollution Control Division; The Louisiana Department of Wildlife and Fisheries and both the Coastal Management

Division and the Office of Conservation of the Department of Natural Resources if the operation is within their respective jurisdictions and from any other agency having permit authority over the proposed project.

I. Clearance shall be obtained from the secretary of the Department of Wildlife and Fisheries, New Orleans, Louisiana, when oyster leases are to be traversed.

J. Written consent must be obtained from the secretary of the Department of Wildlife and Fisheries if the proposed right-of-way crosses a state or federal preserve. Similar clearance is required from any agency having jurisdiction over surface rights of state lands being crossed.

K. The state requires payment for all grants across state lands or navigable streams, regardless of size.

L. The proposed route of the pipeline shall be subject to approval of the commissioner of the Division of Administration.

M. Fees for permits shall be as follows:

1. Class 1. Pipe two inches up to 19 inches outside diameter with a maximum of 75 feet right-of-way during construction to revert to 35 after construction is completed with the additional right of ingress and egress for the purpose of maintenance, repairs, removal or modification - \$25 per rod.

2. Class 2. Pipe 19 inches up to 36 inches outside diameter with a maximum of 100 feet right-of-way during construction to revert to 50 feet after construction is completed with the additional right of ingress and egress for the purpose of maintenance, repairs, removal or modification - \$35 per rod.

3. Class 3. Pipe over 36 inches outside diameter with a maximum of 200 feet right-of-way during construction to revert to 60 feet after construction is completed with the additional rights of ingress and egress for the purpose of maintenance, repairs, removal or modification - \$45 per rod.

4. The minimum fee for any application processed shall be \$50 with a \$100 fee assessed for any assignment of permit thereafter.

N. Contract Term. Twenty years with option to renew for additional 20 year term. The option to renew shall be on the same terms and conditions as the original agreement except that the consideration shall be adjusted to reflect the percentage of increase or decrease in the cost of living index as established by the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor or any revision or equivalent of any such index published by the United States Government, which has occurred from date of this instrument to the date of renewal provided however that in no event shall consideration of such renewal be less than the consideration paid herein for the original term.

O. There shall be no above-ground installations, i.e., valve setting, tie-overs, platforms, etc., without the express consent and approval of the commissioner of the Division of Administration. The secretary shall have authority to establish the basis of compensation (which amount shall be in addition to the per-rod consideration referred to in these rules) for such above-ground installation. The application for pipeline rights-of-way shall contain a concise description of any such above-ground facility together with appropriate drawing, showing location of same and profile of design and style.

P. All pipelines constructed under permits granted by the

State of Louisiana shall be in accordance with Parts 191, 192 and/or 195 of Title 49 of the Code of Federal Regulations, as amended, and other federal and state laws not in conflict therewith.

Q. The State of Louisiana is held free from any and all liabilities.

R. A copy of the Right-of-Way Grant, along with a pertinent plat(s) attached, must be filed with the Clerk of Court of the parish or parishes affected and the Division of Administration furnished recordation data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1173.

HISTORICAL NOTE: Adopted by the State Land Office, LR 1:147 (February 1975), amended by the Department of Natural Resources, Office of the Secretary, LR 3:314 (July 1977), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:

Chapter 29. Fees for Certified Copies

§2901. Fees for Certified Copies

A. Fees charged by the State Land Office for providing certified copies of various matters pertaining to tax adjudicated lands, patents, and official township plats are as follows:

1. original redemption certificates - \$10;
2. original cancellation certificates - \$10;
3. original patents - \$50;
4. copies of official township plats - \$10;
5. copies of field notes - \$1 per page;
6. copies of patents - \$1 per page;
7. each certification of copies named above - \$5;
8. copies of any other State Land Office document - \$1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:8.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 13:29 (January 1987), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:

Chapter 31. Rules and Regulations for Best Use of Nonessential Property

§3101. Rules and Regulations Providing for Designation of Immovables as Nonessential Property

A. Definitions

1. *Nonessential Property*—Land and immovable structures thereon, the use of which is not indispensable to fulfillment of an agency's legally established functions.

2. *Best Use of Nonessential Property*—The use which is possible physically, feasible financially and permissible legally.

B. All state agencies shall review their property inventories in order to designate as nonessential property which could be transferred to the State Land Office (hereinafter referred to as the State Land Office). Land, and immovable structures thereon, the use of which is not indispensable to fulfillment of an agency's legally established functions, shall be considered nonessential property; designated thusly, it shall be expendable immediately from the agency's inventory.

C. In order to designate property as nonessential, one of these criteria must be met:

1. property has been closed, abandoned or neglected by the agency, or
2. the controlling agency formally acknowledges that another agency would derive greater benefits from use of the property.

D. Transfer of Property from the Agency to the Department.

1. Following designation of property as nonessential, the secretary, or head of the agency, shall prepare a written request for the transfer of property from the agency to the State Land Office.

2. The State Land Office and the agency shall execute an agreement which transfers the agency property to the State Land Office. Copies of this agreement shall be retained by the agency and the State Land Office and also shall be filed with the Clerk of Court for the Parish of East Baton Rouge and the Clerk of Court for the parish in which the property is located. Additionally, one copy shall be sent to the Office of the Governor, Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S 41:140.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 13:411 (July 1987), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:

§3102. Best Use or Disposition of Property

A. Upon the transfer of nonessential property to the State Land Office, they shall prepare a land management evaluation report setting forth recommendations for the best use or other disposition of the property.

B. The use which is possible physically feasible financially and permissible legally shall be considered the best use implementable by the State Land Office. Sale, transfer, lease or management of the property are examples of best use.

C. The land management evaluation report and recommendations prepared by the State Land Office shall contain the following:

1. copy of transfer to the State Land Office;
2. property appraisal prepared by or reviewed by the Public Lands Appraiser;
3. provision for a minimum acceptable bid, which shall be ninety percent of the appraisal in Paragraph 2 above;
4. timber appraisal if applicable;
5. map of the property;
6. complete legal description of the property;
7. recommendations for best use or disposition of property;
8. method of sale, if applicable, and reasons therefore;
9. blank approval letter, to be completed by the House and Senate Natural Resources Committees and returned to the State Land Office.

D. Within 10 days of completion, the land management evaluation report shall be filed with the Division of Administration, the House and Senate Natural Resources Committees and the representative and senator in whose district the property is located.

E. In order to initiate implementation of its recommendation for best use or other disposition of the property, the State Land Office must receive the written approval of both House and Senate Natural Resources Committees not more than 90 days following receipt of the recommendation by the committees.

AUTHORITY NOTE: Promulgated in accordance with R.S 41:140.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 13:411 (July 1987), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:

§3103. Recommendations Approved by the Appropriate Committees shall be Implemented by the State Land Office

A. The sale of property shall be through public bid, whether by auction or sealed bids, in accordance with R.S. 41:131-134 or 47:2189.

B. The lease of property shall be through public bid in accordance with R.S. 41:1221 et seq. and other applicable statutes.

C. Property not disposed of by the department shall be utilized in such a manner as to derive maximum revenue from the property.

D. Sales and leases shall be recorded with the Clerk of Court for the parish in which the property is located, and a copy retained by the State Land Office.

AUTHORITY NOTE: Promulgated in accordance with R.S 41:140.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 13:411 (July 1987), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:

§3104. Procedure

A. Transfer

1. request for transfer;
2. inspection by State Land Office;
3. transfer to State Land Office.

B. Report

1. appraisal;
2. minimum bid;
3. copy of transfer;
4. maps;
5. legal description;
6. recommendations and best use;
7. method of sale;
8. approval letter;
9. cover letter.

C. Approval

D. Best Use or Disposition

1. transfer;
2. lease;
3. land management;
4. sale:
 - a. public auction;
 - b. sealed bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:140.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary. LR 13:411 (July 1987), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:

Chapter 33. Rules and Regulations Implementing R.S.47:2189.1

§3301. Rules and Regulations Implementing R.S. 47:2189.1

A. Any person and/or firm listed as a qualified and licensed broker by the Louisiana Real Estate Commission may nominate for sale a parcel or parcels of unredeemed property adjudicated to the state for unpaid taxes.

B. The nomination, to be submitted to the State Land Office, Box 44124, Baton Rouge, LA 70804, shall include the following information as certified by the broker:

1. a complete description of the property, the name of the tax debtor, and the year for which taxes were unpaid;

2. he/she completed or caused to be completed a thorough review of the records of the assessor's office of the parish where the property is located, and there are no dual assessments affecting the property. In the event the records reveal a dual assessment, the broker will furnish the name or names of the parties listed as owners;

3. he/she completed or caused to be completed a thorough search of the conveyance records of the parish where the property is located, and there are no transactions of record which resulted in alienation of the property;

4. current information regarding the owners of the property, and the last known addresses on file with the assessor's office;

5. a list of the names and mailing addresses of all holders of encumbrances recorded against the property.

C. The State Land Office will evaluate information submitted by the broker in order to determine the appropriateness of a sale.

D. In the event the State Land Office concludes that the best interests of the state would be served by redemption of the property, it will notify the broker, and commence efforts to locate parties with interest to redeem the property.

E. If no one with an interest initiates redemption proceedings within 35 days of the mailing of notification pursuant to Paragraph 4 above, the State Land Office will inform the broker that a sale is appropriate.

F. In addition to the requirements set forth in R.S. 47:2189, the broker also shall submit an appraisal, along with an on-site inspection.

G. Nothing herein shall prevent the State Land Office from conducting a second appraisal, where deemed appropriate by the department. In all instances, the State Land Office may use whichever appraisal it considers acceptable in arriving at the minimum price for the property.

H. Whenever practicable, the minimum price shall be sufficient to satisfy all taxes and other costs associated with the sale which must be paid pursuant to R.S. 47:2190.

I. The broker's commission, established by R.S. 47:2189.1 as a cost of the sale, shall be six percent of the amount received by the state treasurer pursuant to R.S. 47:2189.1.

J. The State Land Office shall provide the state treasurer with the broker's name, address and vendor's number, and the state treasurer shall remit the commission to the broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2189.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 13:501 (September 1987), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:

Chapter 35. Notice of Publication for Mineral Leasing **§3501. Notice of Publication Booklet**

A. The State Land Office shall charge a fee of \$120 annually (\$10 per month) for subscription to the Notice of Publication.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session 1988.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 14:544 (August 1988), repealed and repromulgated by

the Office of the Governor, Division of Administration, State Land Office, LR 19:

Interested persons may submit written comments no later than February 19, 1993 to the following address: State Land Office, Attn: Karl Morgan, Box 44124, Baton Rouge, LA 70804.

H. Glen Kent
Public Lands Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT **FOR ADMINISTRATIVE RULES** **Rule Title: State Lands**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no cost or savings to state or local governmental units. This action is merely "housecleaning" to reflect the present statutory location of the State Land Office.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state or local government as there is no change to any existing fees and no new fees proposed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no cost or benefits to any affected persons or nongovernmental groups, since no rules are changed, repealed or added.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment since no rules are changed, repealed or added.

H. Glen Kent, Jr.
Public Lands Administrator

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals **Board of Medical Examiners**

Certification and Practice of Respiratory Therapists and **Respiratory Therapy Technicians** **(LAC 46:XLV. Chapter 25 and 55)**

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3351-3361 and 37:1270(B)(6), and the provisions of the Administrative Procedure Act, intends to amend its rules governing the licensure and practice of respiratory therapists and respiratory therapy technicians to provide for the conduct of nontraditional

respiratory care training programs qualifying an applicant for licensure, the authority and responsibilities of the Advisory Committee on Respiratory Care with respect thereto, and the supervision of students in respiratory care training. LAC 46:XLV, Subpart 2, Chapter 25, §§ 2501-2551; Subpart 3, Chapter 55, §§ 5501-5521.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Profession

Subpart 2. Licensure and Certification

Chapter 25. Respiratory Therapists and Respiratory Therapy Technicians

Subchapter A. General Provisions

§2503. Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified:

The Act, Respiratory Therapy Practice Act or Act—Acts 1985, No. 408, as amended, R.S. 37:3351-3361.

Applicant—a person who has applied to the board for licensure as a licensed respiratory therapist or a licensed respiratory therapy technician.

Board—the Louisiana State Board of Medical Examiners.

Certified Respiratory Therapy Technician—one who has been certified by the National Board for Respiratory Care.

Chest pulmonary therapy (CPT)—chest percussion, postural drainage, chest clapping, chest vibrations, bronchopulmonary hygiene and cupping.

Licensed Respiratory Therapist—a person who is licensed by the board to practice respiratory therapy only under the qualified medical direction and supervision of a licensed physician.

Licensed Respiratory Therapy Technician—a person who is licensed by the board to provide respiratory therapy only under the qualified medical direction and supervision of a licensed physician.

Medical gases—gases commonly used in a respiratory care department in the calibration of respiratory therapy equipment (nitrogen, oxygen, compressed air and carbon dioxide), in the diagnostic evaluation of disease (carbon monoxide, nitrogen, carbon dioxide, helium and oxygen) and in the therapeutic management of disease (nitrogen, carbon dioxide, helium, oxygen and compressed air).

National Board for Respiratory Care—the official credentialing board of the profession, or its successor.

Nontraditional respiratory care education program—a program of studies primarily through correspondence with tutorial assistance and with a clinical component comparable to a traditional program.

Physician—a person who is currently licensed by the board to practice medicine in the state of Louisiana.

Registered Respiratory Therapist—one who has been registered by the National Board for Respiratory Care.

Respiratory therapy—the allied health specialty practiced under the direction and supervision of a licensed physician involving the treatment, testing, monitoring, and care of persons with deficiencies and abnormalities of the cardiopulmonary system. Such therapy includes the following activities conducted upon written prescription or verbal order of a physician and

under his direct supervision:

a. application and monitoring of oxygen, ventilatory therapy, bronchial hygiene therapy, respiratory rehabilitation, and cardiopulmonary resuscitation;

b. insertion and care of airways as ordered by a physician;

c. institution of any type of physiologic monitoring applicable to respiratory therapy;

d. administration of drugs and medications commonly used in respiratory therapy that have been prescribed by a physician to be administered by qualified respiratory therapy personnel;

e. initiation of treatment changes and testing techniques required for the implementation of respiratory therapy protocols as directed by a physician;

f. administration of medical gases, and environmental control systems and their apparatus;

g. administration of humidity and aerosol therapy;

h. application of chest pulmonary therapy, transcription and implementation of the written and verbal orders of a physician;

i. the institution of known and physician-approved protocols relating to respiratory therapy in emergency situations in the absence of immediate direction by a physician;

j. application of specific procedures and diagnostic testing as ordered by the physician to assist in diagnosis, monitoring, treatment, and research, including those procedures required and directed by the physician for the drawing of blood samples to determine acid-base status and blood gas values, the collection of sputum for analysis of body fluids, and the measurement of cardiopulmonary functions as commonly performed in respiratory therapy; and

k. supervision of other respiratory therapy personnel.

B. Respiratory therapy shall also include teaching patient and family respiratory therapy procedures as part of a patient's ongoing program and consultation services or for health, educational, and community agencies under the order of a licensed physician.

C. Masculine terms wherever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 19:

Subchapter B. Requirements and Qualifications for Licensure

§2509. Requirements for Licensure of Respiratory Therapy Technician

A. To be eligible and qualified to obtain a respiratory therapy technician license, an applicant shall:

1. be at least 18 years of age;

2. be of good moral character;

3. be a high school graduate or have the equivalent of a high school diploma;

4. have successfully completed:

a. a traditional respiratory care education program then accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or its successor, in

collaboration with the Joint Review Committee for Respiratory Therapy Education; or

b. a nontraditional respiratory care education program then accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or its successor, in collaboration with the Joint Review Committee for Respiratory Therapy Education which was conducted in accordance with the provisions of §2510 of this Chapter;

5. possess at least one of the following credentials:

a. current credentials as a certified respiratory therapy technician granted by the National Board for Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination; or

b. have taken and successfully passed the examination administered by the board as further detailed in §§2519 to 2537 of this Chapter; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana; or

c. a temporary license issued in accordance with the provisions of §2547.B of these rules and who has taken and passed the licensing examination administered by the board; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana;

6. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the Commissioner of Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 C.F.R.);

7. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

8. satisfy the procedures and requirements for application provided by §2513 to §2517 of this Chapter and, if applicable, the procedures and requirements for examination provided by §2519 to §2537 of this Chapter; and

9. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial or licensure as provided by the law or in these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), LR 15:271 (April 1989), LR 17:479 (May 1991), LR 19:

§2510. Conduct of Nontraditional Training Programs

A. To qualify an applicant for licensure as a respiratory therapy technician pursuant to §2509.A.4.b, a nontraditional respiratory care education program must be conducted in accordance with the following standards:

1. A respiratory therapy technician student participating in such a program must be concurrently enrolled in a respiratory care education program of a school or college accredited by the

American Medical Association Committee on Allied Health Education and Accreditation, or its successor, in collaboration with the Joint Review Committee for Respiratory Therapy Education.

2. The hospital furnishing tutorial assistance, testing, clinical training and similar services for the benefit of the student must:

a. have a written affiliation agreement with the accredited program;

b. designate a training coordinator who shall have had prior experience in a formal respiratory care educational environment with a least five years clinical experience in respiratory care and who shall be a licensed registered respiratory therapist, licensed certified respiratory therapy technician, or a physician who actively practices respiratory care;

c. provide for tutorial assistance and supervision of the student's clinical activities to be provided by a licensed registered respiratory therapist, a licensed certified respiratory therapy technician, or a physician who actively practices respiratory care; and

d. be able to provide students with an opportunity to observe and participate in respiratory therapy procedures adequate in number and type to support the clinical training of entry-level technicians relative to the number of students admitted to and participating in such training.

3. A student providing respiratory care to patients as permitted by R.S. 37:3361(3) in the course of a student's clinical training shall be supervised in accordance with the provisions of §5515 of these rules and shall be identified to patients and licensed practitioners by title or otherwise which clearly designates the student's status as a student or trainee.

B. A nontraditional respiratory care education program which does not conform to and apply the standards prescribed in the preceding subsection shall not be considered by the board to qualify an applicant for licensure under §2509.A.4.b.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:

Subchapter E. Licensure Issuance, Termination, Renewal, Temporary Issuance and Reinstatement §2547. Temporary License

A. The board may issue an 18-month temporary license as a respiratory therapist or respiratory therapy technician under the following terms and conditions:

1. To be eligible for an 18-month temporary license as a respiratory therapist or respiratory therapy technician, an applicant shall:

a. be qualified for licensure under §2507.A or §2509.A, save for having taken and passed a required licensing examination;

b. have successfully completed a respiratory care educational program accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or its successor, in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

c. have taken, or made application to take, the required written examination and be awaiting the administration and/or

reporting of scores thereon.

2. A temporary license issued under this Subsection shall be effective for not more than 18 months and shall, in any event, expire and become null and void on the earlier of:

a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or

b. the first date of the examination if the applicant fails to appear for or complete the examination.

3. Upon expiration of a temporary license issued under this Subsection by virtue of the applicant's failure to achieve a passing score on the licensing examination, the temporary license may be renewed by the board for one additional period not to exceed 18 months. A temporary license so renewed shall expire and become null and void at the expiration of one year from the date of renewal if the temporary license holder has not, on or prior to such date, applied to retake the licensing examination. Any such renewed temporary license shall also expire and become null and void on the earlier of:

a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or

b. the first date of the examination if the applicant fails to appear for or complete the examination.

B. The board shall issue a temporary license as a respiratory therapy technician, effective for a period not to exceed one year, to an applicant who, on and as of June 26, 1989, held a temporary license issued by the board pursuant to R.S. 37:3357(E)(2) and who, on and as of such date and continuously thereafter to and including the date of application, was enrolled in a respiratory therapy technician educational program approved by the American Medical Association. A temporary license issued under this Subsection may be renewed once, for a period not to exceed one year, provided that at the time of expiration of the initial temporary license, the temporary license holder continues to be enrolled in such an approved educational program. An initial or renewed temporary license issued under this Subsection shall in any event expire and become null and void on any date that the holder concludes or terminates his or her enrollment in such an approved educational program.

C. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a respiratory therapist, who provides satisfactory evidence of registration by the National Board for Respiratory Care pursuant to written examination administered by the NBRC, and who is not otherwise demonstrably ineligible for licensure under §2507 of these rules. A permit issued under this Subsection may not be extended or renewed beyond its initial term.

D. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a respiratory therapy technician, who provides satisfactory evidence of having successfully completed a respiratory care educational program approved by the American Medical Association, and who is not otherwise demonstrably ineligible for licensure under §2509 of these rules. A permit issued under this Subsection may not be extended or renewed beyond its initial term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 15:271 (April 1989), LR 17:480 (May 1991), LR 19:
Subchapter F. Advisory Committee on Respiratory Care §2549. Organization; Authority and Responsibilities

A. The Advisory Committee on Respiratory Care (the "committee"), as established, appointed and organized pursuant to R.S. 37:3356 of the Act is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded it by the Act;
2. function and meet as prescribed by the Act;
3. serve as a clearinghouse for nontraditional respiratory care education and training programs conducted in the state of Louisiana;
4. advise the board on issues affecting the licensing of respiratory therapists and respiratory therapy technicians and on the regulation of respiratory care in the state of Louisiana; and
5. perform such other functions and provide such additional advice and recommendations as may be requested by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:

§2551. Delegation of Authority

A. Authority is hereby delegated to the Advisory Committee on Respiratory Care to survey, by site visit or otherwise, each hospital or other institution located in this state which is affiliated with and at which is conducted a nontraditional respiratory care education and training program for the purpose of reporting to the board as provided by Subsection B hereof.

B. The committee shall annually report to the board, in writing, on each such nontraditional respiratory care education and training program conducted in this state and, with respect to each such program, advise the board with respect to:

1. such program's compliance with the provisions of these rules relating to the conduct of such programs;
2. the number of students enrolled and participating in such program during the preceding year;
3. the number of graduates of such program having taken the National Board of Respiratory Care entry-level examination and the number of such graduates having successfully passed such examination; and
4. any recommendations the committee may have with respect to the future conduct of such program and regulation of the same by the board.

C. In discharging the responsibilities provided for by this Section, the committee shall have authority to:

1. periodically request and obtain necessary and appropriate information from hospitals or other institutions located in this state which are affiliated with and at which are conducted a nontraditional respiratory care education and training programs, from the coordinators of such programs, and from students enrolled in such programs; and

2. periodically conduct visits of the hospitals or other institutions at which such programs are conducted in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:

Subpart 3. Practice

Chapter 55. Respiratory Therapists and Respiratory Therapy Technicians

Subchapter A. General Provisions

§5503. General Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms shall have the meanings specified:

The Act, Respiratory Therapy Practice Act or the Act—Acts 1985, No. 408, as amended, R.S. 37:3351-3361.

Applicant—a person who has applied to the board for licensure as a licensed respiratory therapist or a licensed respiratory therapy technician.

Board—the Louisiana State Board of Medical Examiners.

Certified Respiratory Therapy Technician—one who has been certified by the National Board for Respiratory Care.

Chest Pulmonary Therapy (CPT)—chest percussion, postural drainage, chest clapping, chest vibrations, bronchopulmonary hygiene and cupping.

License—the lawful authority of a respiratory therapist or a respiratory therapy technician to engage in the health specialty of respiratory therapy in the state of Louisiana, as evidenced by a license duly issued by and under the official seal of the board.

Licensed Respiratory Therapist—a person who is licensed by the board to practice respiratory therapy only under the qualified medical direction and supervision of a licensed physician.

Licensed Respiratory Therapy Technician—a person who is licensed by the board to provide respiratory therapy only under the qualified medical direction and supervision of a licensed physician.

Medical gases—gases commonly used in a respiratory care department in the calibration of respiratory therapy equipment (nitrogen, oxygen, compressed air and carbon dioxide), in the diagnostic evaluation of disease (carbon monoxide, nitrogen, carbon dioxide, helium and oxygen) and in the therapeutic management of disease (nitrogen, carbon dioxide, helium, oxygen and compressed air).

National Board for Respiratory Care—the official credentialing board of the profession, or its successor.

Physician—a person who is currently licensed by the board to practice medicine in the state of Louisiana.

Registered Respiratory Therapist—one who has been registered by the National Board for Respiratory Care.

B. Masculine terms wherever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 19:

Subchapter C. Supervision of Students

§5515. Supervision of Student

A. A person pursuant to a "course of study" leading to registry or certification in respiratory therapy shall engage in the practice of respiratory therapy only under the supervision of a

licensed respiratory therapist, licensed respiratory therapy technicians or a physician who actively practices respiratory care, as provided in this Section.

B. A licensed respiratory therapist, licensed respiratory therapy technician, or a physician who undertakes to supervise a student shall:

1. undertake to concurrently supervise not more than four students;

2. personally evaluate every patient prior to the provision of any respiratory therapy treatment or procedure by a student;

3. assign to a student only such respiratory therapy measures, treatments, procedures and functions as such licensed respiratory therapist, licensed respiratory therapy technician, or physician has documented that the student by education and training, is capable of performing safely and effectively;

4. provide continuous and immediate on-premises direction to and supervision of a student and be readily available at all times to provide advice, instruction, and assistance to the student and to the patient during respiratory therapy treatment given by a student;

5. not permit a student to perform any invasive procedure or any life-sustaining or critical respiratory care, including therapeutic, diagnostic or palliative procedures, except under the direct and immediate supervision, and in the physical presence of, the supervising therapist, technician, and/or physician; and

6. provide and perform periodic evaluation of every patient administered to by a student and make modifications and adjustments in the patient's respiratory therapy treatment plan, including those portions of the treatment plan assigned to the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 19:

Inquiries concerning the proposed amendments may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address 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, Suite 100, 830 Union Street, New Orleans, LA, 70112-1499. Written comments must be submitted to and received by the board within 60 days of the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**Rule Title: Certification and Practice of Respiratory
Therapists and Respiratory Therapy Technicians**

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Board of Veterinary Medicine, LR 19:

Vikki Riggle
Executive Director

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

It is estimated that the board will incur additional costs of \$135 during FY 1992-93, \$270 in FY 1993-94, and \$405 in FY 1994-95 in implementation of the proposed rule amendments.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

It is not anticipated that the proposed rule amendments will have any effect on the board's revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

It is not anticipated that the proposed rule amendments will have any impact on receipts and/or income of persons who may be indirectly affected by adoption of the proposed rules.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

It is not anticipated that the proposed rule amendments will have any material impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Public Hearings and Meetings (LAC 46:LXXXV.Chapter 1)

(Editor's Note: A portion of the following rules, which appeared on pages 1432 through 1434 of the December 20, 1992 Louisiana Register, is being republished in its entirety to correct typographical errors.)

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 1. Board of Veterinary Medicine

§106. Public Hearings

A. The board may call a disciplinary public hearing for the purpose of determining whether a licensee has violated any portion of the Veterinary Practice Act (R.S. 37:1511 et seq.). Notice of such hearing, and subpoenas issued by the board pursuant to such hearing, may be delivered by certified, return-receipt-requested mailing or by hand-delivery.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

NOTICE OF INTENT

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

Durable Medical Equipment

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

Currently in the Medicaid Program the pricing of durable medical equipment is established according to the Medicare rate or a set amount which does not exceed the Medicare upper limit. Changes in federal regulations no longer require restrictive pricing of durable medical equipment in accordance with Medicare maximum allowable amounts. Therefore, the Bureau of Health Services Financing is seeking to adopt a methodology for the reimbursement of durable medical equipment which will promote standardized pricing throughout the range of durable medical equipment covered under Medicaid of Louisiana. This methodology incorporates two approaches which are outlined in the following proposed rule.

PROPOSED RULE

Effective April 20, 1993, the Bureau of Health Services Financing will implement a dual methodology for pricing durable medical equipment. Some durable medical equipment including prosthetics and orthotics will be reimbursed at a flat fee or according to the billed charges whichever is the lesser amount. A second group of equipment will be priced on an individual basis due to pricing variations resulting from unique specifications. Pricing of this equipment group will include analyses of such factors as the Medicare rate and upper limits, invoiced costs to providers and negotiated rates based on data from private insurers regarding their allowable reimbursement for these types of equipment.

Implementation of this proposed rule is dependent upon approval by the Health Care Financing Administration. Disapproval of this change by the Health Care Financing Administration will automatically cancel the provision of this proposed rule and the current policy will remain in effect. Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-90030. He is the person responsible for responding to inquiries regarding this notice of intent. Copies of this proposed rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

A public hearing on this proposed rule will be held in the

Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m., Friday, February 26, 1993. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Durable Medical Equipment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule is projected to increase state expenditures by \$9,331 in SFY 1992-93; \$469,432 in SFY 1993-94; and \$509,805 in SFY 1994-95.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule is projected to increase federal revenue by \$26,753 in SFY 1992-93; \$1,305,357 in SFY 1993-94; and \$1,335,976 in 1994-95.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Reimbursement rates to providers of durable medical equipment will increase by (a) \$36,084 in 1992-93; (b) \$1,774,789 in 1993-94; and (c) \$1,845,780 in 1994-95 for approximately (a) 18,564, (b) 19,307 and (c) 20,079 items of durable medical equipment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Facility Need Review—Inpatient Psychiatric Beds

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule under the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing, will include in the scope of coverage of the Facility Need Review Program all proposals for increases in the number of inpatient psychiatric hospital beds in the Title XIX Program, regardless of whether the beds are in a free-standing psychiatric hospital or a unit of an acute care, general hospital. In order for additional inpatient psychiatric hospital beds to be added in the service area, the bed to population ratio for inpatient psychiatric hospital beds shall not exceed 65 Medicaid approved beds per 100,000 population in the service area. The state is the service area for proposed or existing inpatient psychiatric hospital beds. At the present time the recommended bed to population ratio for inpatient psychiatric hospital beds has been achieved. Therefore, there is no currently identified need for additional inpatient psychiatric hospital beds. Therefore, the Policies and Procedures for Facility Need Review are being revised as follows:

12501. DEFINITIONS, page 2, the following shall be added as number 15:

Inpatient psychiatric hospital beds: Includes both beds located in free-standing psychiatric hospitals and in units of acute care, general hospitals.

12501. D. SCOPE OF COVERAGE, page 4, the following shall be added as number 4: Inpatient psychiatric hospital beds

12501. E. GRANDFATHER PROVISION, page 4, the following shall be added as number 2:

2. For inpatient psychiatric hospital beds, an approval shall be deemed to have been granted under this program without review for beds in psychiatric facilities which were enrolled in Medicaid as of the effective date of the Facility Need Review Program, and for approvals which were subsequently issued and remain valid under the Facility Need Review Program.

12501. F. REVOCATION OF APPROVALS/ AVAILABILITY OF BEDS FOR TITLE XIX RECIPIENTS, page 5, the following shall be substituted for number 1:

1. Nursing facility beds, inpatient psychiatric hospital beds, and SNF-ID beds which are added to existing, licensed facilities must be enrolled in the Title XIX Program within one year of the date of approval by the Facility Need Review Program. New nursing facilities, psychiatric hospitals, and SNF-IDs which are approved to be constructed must be enrolled in the Title XIX Program within 16 months of the date of the approval. An extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g. acts of God). Inappropriate zoning is not a basis for extension.

12502. DETERMINATION OF BED NEED

Page 14, the following shall be added as Subsection D:

D. INPATIENT PSYCHIATRIC HOSPITAL BEDS

1. The service area for inpatient psychiatric hospital beds, for Medicaid planning purposes, is the state.

2. Data sources to be used include information compiled by the Facility Need Review Program, and the middle population projections recognized by the State Planning Office as official projections. Population projections to be used are those for the year in which the beds are to be enrolled in Medicaid.

3. Beds which are counted in determining need shall include (1) inpatient psychiatric hospital beds which were

grandfathered under the provisions of the Facility Need Review Program, and which remain licensed; and (2) inpatient psychiatric hospital beds which are approved under the Facility Need Review program.

4. In order for additional beds/facilities to be added to the service area, the bed to population ratio for inpatient psychiatric hospital beds shall not exceed 65 Medicaid approved beds per 100,000 population in the service area.

COMMENTS

Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this notice of intent.

NOTICE OF PUBLIC HEARING

A public hearing on this proposed rule will be held on February 26, 1993, in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Facility Need Review Inpatient Psychiatric Beds

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this action will result in a cost savings to the state general fund of \$588,580 in FY 92-93, \$2,671,137 in FY 93-94 and \$3,157,090 in FY 94-95.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Due to savings in Medicaid expenditures, there will be a concomitant decrease in federal Medicaid matching funds of \$1,687,446 in FY 92-93, \$7,418,704 in FY 93-94, and \$8,273,359 in FY 94-95.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

No impact is anticipated on medicaid recipients based on the proposed action as there are currently sufficient beds to serve the estimated recipients in the years affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule may limit the number of additional psychiatric beds being developed for Medicaid recipients. The extent of this impact can not be determined.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Insurance Commissioner of Insurance

Regulations 31 - Holding Company

Pursuant to the provisions of R.S. 49:950 et seq. and R.S. 22:1009, the Commissioner of Insurance hereby gives notice of his intent to amend Regulation 31 in order to adopt provisions authorized by amendments made to the Insurance Holding Company System Regulatory Law by Act 811 of the 1992 Regular Legislative Session, R.S. 22:1001-1015. The new provisions are found in R.S. 22:1005.D and R.S. 22:1006.A(6)-(9).

The amendment made to §1005.D authorizes the commissioner by rule, regulation or order to modify the materiality standard which is what triggers a duty on the part of insurers which are part of an insurance holding company system to report certain transactions as part of their Form B filings. The proposed revision to Regulation 31, Item 5 of Form B, adopts a materiality standard which exempts from the reporting requirements all transactions of less than \$25,000 and transactions in the amount of \$25,000 to \$250,000 unless such transaction involves .0075 of an insurer's admitted assets.

The amendment to §1006.A(6)-(9) imposes a requirement on insurers subject to the Insurance Holding Company System Regulatory Law to obtain prior approval from the commissioner before entering into certain transactions. The proposed revisions to the regulation adopts Section 16 and adds Form D, which is the form used to request approval from the commissioner. They also set forth the reporting requirements to be met when seeking prior approval for the transactions enumerated in R.S. 22:1006.A(6)-(9).

A copy of the proposed regulation may be obtained from the address below or by telephone at 504-342-8391. Copies may also be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, phone 504-342-5015.

The proposed amendments to Regulation 31 are scheduled to become effective April 20, 1993. Interested parties may submit written comments on the proposed regulation until 4:30 p.m., February 15, 1993 to: C. Noël Wertz, Senior Attorney, Box 94214, Baton Rouge, LA 70804-9214.

James H. "Jim" Brown
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Regulation 31-Insurance Holding Company Systems

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this regulation. The regulation does not impose any new duties

on the department that would require funding for additional personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this regulation will not have any effect on revenue collections by the state or local governmental units. There are no fees, fines or other revenue generating activities imposed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is not anticipated that this regulation will impose any additional costs on those companies which market insurance policies that contain accelerated benefits provisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that there will be any effect on either competition or employment resulting from the adoption of this regulation.

Brenda St.Romain
Fiscal Officer

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-F

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes the following amendment to the Statewide Order No. 29-F.

Title 43

NATURAL RESOURCES

PART XIX. Office of Conservation: General Operations

SUBPART 8. Statewide Order No. 29-F

Chapter 21. Allowable Production of Natural Gas

§2101. Scope

Adopting filing requirements for natural gas nominations and gas well deliverability tests, and rules and regulations concerning the calculation of allowables and balancing of production to allowable for wells completed in non-associated gas pools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by Department of Natural Resources, Office of Conservation LR 19:

§2103. Definitions

A. Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this statewide order:

District Manager—the manager of any one of the districts of the state of Louisiana under the office of conservation, and

refers specifically to the manager within whose district the wells affected by this order are located.

Field—the general area as so designated by the office of conservation which is underlaid or appears to be underlaid by at least one non-associated gas pool.

Maximum Efficient Rate of Production—the highest sustainable rate of production which will maximize the total efficient recovery of reserves and minimize both bottomhole pressure drawdown and the production of sand or water.

Natural Gas—hydrocarbons normally occurring in a gaseous state produced from a non-associated gas pool.

Non-Associated Gas Pool ("pool")—an underground reservoir containing a common accumulation of natural gas. Each zone of a general reservoir which is completely separated, whether stratigraphically or structurally, from any other zone in the reservoir is covered by the term pool.

Producer/Owner—as defined in R.S. 30:3(8), (9).

Unit—all exploration, drilling, or production units established for a particular pool, by agreement, by order of the commissioner of conservation or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by Department of Natural Resources, Office of Conservation, LR 19:

§2105. Application

A. This order shall apply to all wells in Louisiana producing gas from pools, whether covered by special order or not, and any provisions of prior orders, including special field orders, in conflict herewith are hereby modified to the extent of such conflict only.

B. This order shall not apply to casinghead gas produced from wells classified by the office of conservation as oil wells. The commissioner may, by special order, exempt:

1. gas cycling or pressure maintenance projects; and

2. hardship or other wells that the commissioner determines should be exempt in order to maximize total recoverable reserves or to protect correlative rights. There shall be no shifting or reallocation of allowables for wells within a pool as a result of such special orders.

C. When a pool, reservoir, or field reaches a stage of depletion which would render the enforcement of this order impracticable or unduly burdensome either on the office of conservation or upon the producers/owners with the right to take gas in kind from such pool, reservoir, or field, the commissioner of conservation may exempt such pool, reservoir, or field from the provisions of this order by notice to the producers/owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by Department of Natural Resources, Office of Conservation, LR 19:

§2107. Allowables

A. Allowable rates of production are to be established by the commissioner for each pool on a quarter-by-quarter basis for the periods March through May, June through August, September

through November, and December through February, respectively. The commissioner may use Form MD-19 in calendar quarters in which deliverability tests are not conducted to supplement the DT-1 semi-annual test information and actual production from the prior year. Subject to the adjustments hereinafter discussed, allowables are to be set in accordance with the actual rate of production from the pool for the same quarter of the previous calendar year (base unadjusted allowable). The base unadjusted allowable shall be increased or decreased in accordance with:

1. any changes in market demand for that pool in the months subsequent to the same quarter in the previous year;
2. decline in reservoir deliverability for the pool;
3. protection of correlative rights;
4. a determination of the maximum efficient rate of production for that pool;
5. consideration of whether production in the prior year's comparable quarter exceeded the allowable for that quarter; and
6. other petroleum engineering and deliverability test information.

B. Any operator(s) of a pool may apply for an increase or decrease in the base unadjusted allowable by submitting a specific proposal to that effect (alternate nomination) to the commissioner and to the district manager not later than forty-five days preceding the quarter in question, that is by January 15, April 15, July 15, and October 15 of each year. However, the operator(s) or producer/owner bears the burden of establishing that the base unadjusted allowable should be changed for that quarter and must submit sufficient verifiable documentation (such as contracts or contract briefs for new or increased sales and DT-1 reports for workovers, recompletions, and new wells) to support that request. The operator(s) seeking an alternate nomination must so notify all other operators in the pool by certified mail on the same date the alternate nomination is filed with the commissioner (interested party). If no objections are filed with the commissioner and the district manager within five days of receipt of the alternate nomination and the request is properly substantiated by the documentation submitted, the operator's alternate nomination shall become the base unadjusted allowable. If any interested party in the pool timely objects to the alternate nomination in writing, and such objection is not frivolous in the opinion of the commissioner, the operator seeking a change in allowables must then file an application for hearing. The commissioner may, in that instance, grant a revised base unadjusted allowable only after notice and opportunity to be heard has been given to all interested parties.

C. In setting the final allowable for the quarter in question, the commissioner shall make changes in the base unadjusted allowable or alternate nominations in accordance with the following principles and determinations, to wit:

1. The base unadjusted allowable may never exceed the total maximum efficient rate of production for all wells in the pool, which may well be below the maximum rate of deliverability of such wells. The same principle shall apply with respect to allocation of the pool allowable to individual wells within the pool. The maximum efficient rate of production may be adjusted from time to time by virtue of DT-1 test results

reflecting changes in sustainable rates of deliverability, rate of production of sand or water and bottom hole pressure drawdown.

2. The base unadjusted allowable or alternate nomination may be increased by virtue of workovers and recompletions within the pool if the operator(s) can verify through submission of petroleum engineering data and DT-1 deliverability tests that workovers, and/or recompletions (performed since the allowable for the comparable calendar quarter in the previous year was set) have resulted in an increase in sustainable rates of production for the pool. Recompletions performed during the preceding 12 months shall be treated as new wells and the base unadjusted allowable therefore established on the basis of the increase in the sustainable rate of deliverability of the recompleted zone of production in the pool.

3. The base unadjusted allowable shall be reduced by the volume attributable to:

- a. any decline in sustainable rates of deliverability of any wells in the pool; and
- b. deliverability of any wells that have been temporarily abandoned or plugged and abandoned since the quarter in question for the previous calendar year, but shall be increased by the volume attributable to the sustainable rate of deliverability of any new wells which have been drilled, completed and commenced production to market since the comparable calendar quarter for the previous calendar year. Adjustments for workovers, recompletions, new wells, decline in deliverability and temporary or permanent abandonment shall collectively be referred to as deliverability adjustment.

4. The base unadjusted allowable or alternate nomination may be further increased or decreased by the commissioner after notice if the commissioner determines that:

- a. the base unadjusted allowable as amended by the deliverability adjustment does not reflect reasonable market demand for the pool in question;
- b. the production for the pool in question for the prior year's comparable quarter was attributable in part to unusual weather and/or market conditions; or
- c. the correlative rights of the other producers/owners in the pool, including both competitive and non-competitive reservoirs, are not adequately protected.

D. All information and calculations required for determination of allowables must be provided by the operator(s) for each pool on Form EDG-1, entitled 29-F Allowable Calculation Worksheet, which must be completed by the operator(s) of the pool and returned to the district manager on or before the fifth day of the month preceding the quarter for which the allowable is being determined. Allowables will not be assigned and wells will be shut-in unless the form is completed and returned timely.

E. The total allowable rate of production for each pool shall then be allocated among the wells within the pool in accordance with the formula adopted for such pool, by special order applicable to such pool, or, if no formula has been adopted by special order, the pool allowable shall be apportioned among the producing wells in the pool in proportion to the productive area assigned to each well.

F. Such proration or apportionment shall be determined for

each well in the pool by multiplying the production acreage assigned to that well times a pool acre factor for the total pool. The pool acre factor shall be determined by dividing the total pool allowable for that quarter by the total acreage assigned to all wells or units within the pool producing or capable of producing. If the commissioner determines that any well shall be incapable of producing the full allowable as determined above (deficient well), an allowable shall be fixed for that well on the basis of its ability to produce on a sustainable basis in accordance with the maximum efficient rate for that well, but only after:

1. a determination by the commissioner (following submission of evidence) that the well cannot be made to produce at a higher rate; and

2. verification that the well will be produced at the maximum efficient rate of production.

G. The difference between the allowable assigned to such deficient well and its actual sustainable deliverability may not be reassigned to other proratable wells within the pool, unless the commissioner grants an exception. Operator(s) and producers/owners may file an application for exception which can be granted only if the commissioner determines after a hearing that to do so:

1. would maximize efficient recovery of reserves;

2. would not result in drainage between units within the pool;

3. does not preclude the ability to balance production within the pool; and

4. would protect correlative rights.

H. The commissioner may reach such a determination during initial unitization hearings, based upon permeability, porosity, or other petroleum engineering data and disparity in acreage assigned to a unit(s).

I. The allowable for a newly completed or recompleted well in a pool during any allowable period shall be established by the same formula as was used in fixing the allowable for wells already producing from such pool at the beginning of the allowable period. Allowables for newly completed or recompleted gas wells shall commence on the date of initial production to market. Allowables must be assigned to alternate unit wells in a manner which will preclude a unit on which an alternate well is drilled from obtaining a production advantage over other units in the pool.

J. The schedule of allowables for each well issued by the commissioner for each quarterly period shall be expressed as an average daily allowable for the period. For the purpose of reporting monthly production to the commissioner, the daily allowable for each well times the number of days in the calendar month shall be reported as the monthly allowable.

K. No gas well shall be entitled to an allowable, nor shall any allowable be granted, until all necessary physical connections to a pipeline for marketing have been made to permit full utilization of the allowable. Should the commissioner consider that acreage assigned by an operator to a well for the computation of allowable production not to be productive, the commissioner may exclude such acreage which he considers non-productive in computing the allowable production for the well.

L. Operator(s) and producers/owners may elect to market

production attributable to their interest from any well in a pool on a seasonal basis (that is, reduction in production attributable to its interest in one or more months and increase in production in other periods during the year). In order to protect correlative rights and to assure the ability of each producer/owner to recover or to receive his just and equitable share of production, the commissioner may, upon application, and after public hearing, enter orders:

1. to protect the rights of any operator(s) or producer/owner who elects to market seasonally; and

2. to assure any producer/owner in a well, not a party to a gas balancing agreement, the reasonable opportunity to produce its share of the allowable assigned to that well. Such orders may include separate allowables for producers/owners within a well, and the right of a producer/owner in a pool or well to increase production attributable to its interest in the months of November, December, January, February, and March in accordance with §2109 of Order 29-F to come into balance.

M. Allowables may not be increased for overproduced wells or pools from quarter-to-quarter in order solely to achieve balancing pursuant to §2109 of Order No. 29-F. Moreover, allowables may not be reduced for those operator(s) or producers/owners in a pool who wish voluntarily to market natural gas on a seasonal basis, provided that the well or wells in question are in fact capable of producing the full allowable.

N. The commissioner shall, when circumstances warrant, issue an emergency allowable in order to satisfy, for the period of the emergency, an increase or decrease in demand for gas through adjustment of the quarterly allowable for that pool or the wells therein. Production pursuant to any emergency allowable will nonetheless be subject to §2109 and may not be continued beyond a 30 day period without public hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by Department of Natural Resources, Office of Conservation, LR 19:

§2109. Balancing of Production to Allowable

A. Except as hereinafter prohibited, any gas well may produce during any calendar month, twice the allowable assigned to it, provided that its production shall be brought into balance at the times and in the manner herein prescribed. When the monthly production from a well exceeds its monthly allowable, the excess shall be termed overproduction, and when a well's monthly production is less than its monthly allowable, the deficiency shall be termed underproduction.

B. Each operator(s) shall keep a monthly account of the cumulative production status of each gas well as to overproduction and underproduction and shall report such cumulative production status on Form R5P filed monthly with the office of conservation and the district manager of the district in which the pool is located.

C. When any pool or well shall have a cumulative overproduction status on October 31 of any year, the operator(s) of such overproduced wells shall reduce the production of gas from the well during the next six months below the regular allowables so as to bring its production into balance with its allowable by the first day of May of the next year. Such

reduced production may be at varying rates of withdrawal, normally experienced in gas production and marketing, so long as the overproduction is eliminated by the first day of May. Any well having a cumulative overproduction status on the first day of May of any year shall be shut-in and not produced until such overproduction is entirely eliminated. When any well shall have a cumulative underproduction status as of October 31, such underproduction may be made up during the next six months, but any underproduction remaining on May 1 of any year shall be cancelled and shall not thereafter be made up, unless the commissioner grants an exception after public hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1995), amended (July 1, 1959), amended and promulgated by Department of Natural Resources, Office of Conservation, LR 19:

§2111. Capability of Wells to Produce

A. Anything herein contained to the contrary notwithstanding, no well shall be produced in excess of its maximum efficient rate of production nor at a monthly rate in excess of twice its monthly allowable, even during makeup periods.

B. Unless waived by the commissioner, each operator(s) shall conduct semi-annual deliverability tests of each producing gas well by methods approved by the commissioner. The results of such tests shall be reported on Form DT-1 entitled Gas Well Deliverability Test and shall be certified by a registered petroleum engineer. The deliverability test shall be designed to determine the maximum efficient rate of production for each well by simulating the maximum sustainable rate of production into pipeline gathering or transmission facilities under normal operating and marketing circumstances. The DT-1 forms shall certify whether production of that well at or above a specific rate has or will, in the opinion of the certifying engineer, result in an increase in pressure drawdown, production of sand or water, or changes in the current rate of production of sand or water, and if so, at what maximum rate the well should be produced:

1. to minimize pressure drawdown or production of sand or water; and

2. to maximize total recoverable reserves. Allowables may not be set at or above that rate.

C. The Form DT-1 shall include the rates of production at which sand or water has been or will be produced and the rates of production at which increases in the rate of production of water or sand or bottomhole pressure drawdown will occur. The DT-1 form shall specify the maximum efficient rate of production as determined in accordance with these procedures. The test shall be conducted for 24 consecutive hours at the end of a three day uninterrupted period of production. The test should be conducted using the same choke size and other operational conditions in effect for day-to-day long term production and marketing; in short, no changes shall be made in the manner in which the wells are normally produced in testing same for sustainable deliverability.

D. Form DT-1 shall be filed in duplicate with the district manager no later than the first day of February and August of each year. District managers may schedule deliverability tests

for the purpose of having such tests witnessed by a representative of the office of conservation. Operator(s) shall be notified at least five days in advance of any test so scheduled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by Department of Natural Resources, Office of Conservation, LR 19:

§2113. Ratable Production

A. The commissioner may make a survey of the production of gas from each field having more than one market. Should the commissioner find that during the preceding six months period, gas has not been produced ratably from the wells producing from any pool in accordance with the allowables established by him, he shall call a conference of all interested persons and determine the reason why gas has not been produced ratably in accordance with the allowables established by him and shall make such adjustments in allowables or take such further action as he may deem appropriate to accomplish a ratable production of gas from the various wells in such pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (November 8, 1955), amended (July 1, 1959), amended and promulgated by Department of Natural Resources, Office of Conservation, LR 19:

In accordance with the provisions of R.S. 49:951 et seq. and R.S. 30:4, notice is hereby given that the commissioner of conservation will conduct a public hearing at 9 a.m., Wednesday, February 24, 1993, in the Conservation Auditorium, located on the first floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

At such hearing the commissioner shall consider the promulgation of amendments to Statewide Order 29-F by adopting filing requirements for gas nominations and gas well deliverability tests and rules and regulations concerning the calculation of allowables and balancing of production to allowable for wells completed in non associated gas pools.

Copies of the forms referred to in Statewide Order 29-F can be obtained in person at the following addresses:

Office of Conservation, Engineering Division, Room 102, 625 North Fourth Street, Baton Rouge, LA;

Office of Conservation, Shreveport District Office, 1525 Fairfield Avenue, Shreveport, LA;

Office of Conservation, Lafayette District Office, 825 Kaliste Saloom Road, Bldg. 3, Lafayette, LA;

Office of Conservation, Monroe District Office, 122 St. John Street, Room 214, Monroe, LA.

Written requests for the forms referenced in Statewide Order Number 29-F should be addressed to: Office of Conservation, Engineering Division, Box 94275-Capitol Station, Baton Rouge, LA 70804-9275.

Telephone requests for the forms should be addressed to: Debbra Ellard, (504) 342-5570 or Janet Miller (504) 342-5544.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953. Written

comments will be accepted until 4:30 p.m., Wednesday, March 3, 1993 at the following address: Office of Conservation, Engineering Division, Box 94275, Baton Rouge, LA 70804-9275, reference Docket No. 93-11; proposed Statewide Order 29-F as amended.

H. W. Thompson
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
Rule Title: Statewide Order 29-F**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

Estimated costs to state governmental units is \$265,539 for FY 93-94, \$255,361 for FY 94-95, and \$265,575 for FY 95-96.

There is no implementation costs or savings to local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

Revenue collections of state governmental units will be increased by an estimated \$480,000 per year.

There will be no effect on revenue collections of local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Estimated additional costs to producers of non-associated gas is:

Public Hearing Costs	\$4,000,000
Gas Well Deliverability Test Certification	1,230,000
29-F Allowable Calculation Worksheet	<u>210,000</u>
Total	\$5,440,000

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

H. W. Thompson
Commissioner

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Natural Resources
Office of the Secretary**

Fee Assessment (LAC 43:I.1515)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Department of Natural Resources hereby gives notice that it intends to amend LAC 43:I.1515 regarding

the assessment of fees. The previous assessment was imposed on April 20, 1992.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

**Chapter 15. Administration of Fishermen's Gear
Compensation Fund**

§1515. Assessment of Fees

* * *

B. The balance in the Fishermen's Gear Compensation Fund is less than \$250,000 and, pursuant to R.S. 56:700.2, (as amended, Act 337 of 1991) an additional fee of \$500 will be assessed on each lessee of a state mineral lease and each grantee of a state pipeline right-of-way located in the coastal zone of Louisiana, effective April 20, 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.2.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 5:328 (October 1979), amended LR 9:15 (January 1983), LR 10:546 (July 1984), LR 11:1178 (December 1985), LR 12:602 (September 1986), LR 13:360 (June 1987), LR 15: 497 (June 1989), LR 16:320 (April 1990), LR 17:605 (June 1991), LR 18:117 (January 1992), LR 19:

Questions or comments relative to this fee may be directed to Martha A. Swan, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Capitol Station, Baton Rouge, LA, 70804, (504) 342-0122, and must be received by March 10, 1993.

John F. Ales
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Rule Title: Fee Notice

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There will be no additional implementation cost (savings) to state or local government units. Existing staff can handle the related workload.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

Commercial fishermen may file claims for reimbursement (not to exceed two each fiscal year) for damages sustained while operating in coastal waters. Reimbursement is paid from the Fishermen's Gear Compensation Fund, whose revenues are generated by an assessment on each holder of a state mineral lease and each grantee of a state pipeline right-of-way located within the Coastal Zone. Assessments are imposed only when the fund's balance is below \$250,000. No revenues will be received until May, 1993, and the approximately \$950,000 derived from the assessment of \$500 on each of 1900 leases and rights-of-way will be used to pay claims through the end of FY 92-93.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The assessment will be paid by the oil and gas exploration, production and transmission industries. Legislation which established the Fishermen's Gear Compensation Fund authorizes assessment of fees not to exceed \$1,000 per year per lease or right-of-way. The proposed rule announces an assessment of \$500 on each of 1900 leases and rights-of-way, with the resulting \$950,000 used to pay claims for reimbursement filed by eligible commercial fishermen.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment, being that this rule simply announces a fee authorized by an act of the legislature.

Robert D. Harper
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of the State Police
Transportation and Environmental Safety Section

Towing, Recovery, and Storage
(LAC 55:I.Chapter 19)

The Department of Public Safety and Corrections announces its intent to amend the current rules adopted pursuant to R.S. 32:1711 et seq., related to the towing, recovery, and storage rules and regulations.

The department intends to amend the rules pertaining to: the daily storage fees which may be charged to customers when their vehicles are in storage so that the rule is consistent with current state law; to include the maximum fees that the department may charge to towing or storage companies for providing them with the information required by R.S. 32:1719; to require the use of a flashing or rotating amber beacon on tow trucks when towing vehicles; and to require an invoice format that indicates signatory authorization by the vehicle's owner for specific services rendered, such as towing and or vehicular repair.

Title 55
PUBLIC SAFETY
PART I. STATE POLICE
Chapter 19. Towing, Recovery, and Storage Rules and Regulations
§1907. Definitions

Covered storage—continuous covering which adequately protects a vehicle from the elements. This includes but is not limited to a tarpaulin or similar covering which protects the vehicle and its interior from rain, dew, moisture, etc.

Inside storage—continuous storage in or under a fixed structure which adequately protects a vehicle from the elements on all sides of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December, 1989) amended LR 19:

§1919. General Tow Truck Lighting and Equipment

B. All tow trucks, except slideback recovery vehicles when they are transporting a vehicle on their beds, shall be equipped with at least one amber rotating or flashing beacon visible for 360 degrees at a distance of 1000 feet under normal atmospheric conditions at night.

1. While at the scene of an accident or disabled vehicle or when actually towing a vehicle, a tow truck operator shall illuminate or cause to be illuminated the amber rotating or flashing beacon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December, 1989) amended LR 19:

§1939. Towing/Storage Facility Business Practices

A. 1.-2. ...

3. a. Any invoice, bill, statement, authorization or other form utilized by a towing company, which is to be signed by the owner (or agent) of a vehicle to be towed, must be of a format approved by the department. This form must clearly denote what service is being authorized by signature. That is, there will be a separate signature line which merely authorizes the towing of the vehicle and another signature line to authorize any repairs to the vehicle.

b. No repairs shall be performed upon any vehicle unless there is an explicit signed written agreement authorizing such repairs.

c. Towing companies must submit a sample copy of their invoices to the Towing and Recovery Unit to be kept on file there. Any invoice which does not meet the criteria outlined above will be in violation of these regulations and any charges for services on an unauthorized invoice will be forfeited. Towing companies will have 60 days from the effective date of these rules to furnish copies of invoices required herein.

§1945. Storage Rates

B. 2. Maximum daily fee for covered storage: \$10 per vehicle as required by law.

3. Maximum daily fee for inside storage: \$12 per vehicle as required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December, 1989) amended LR 19:

§1947. Notification to Department of Public Safety and Corrections

* * *

C. The department may charge an administrative fee of \$9.50 to process the information exchange required in Subsection A above.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December, 1989) amended LR 19:

The proposed rule changes are scheduled to become effective on April 20, 1993. Comments will be accepted, in writing, by Sergeant Brian Wynne, Louisiana State Police, Transportation and Environmental Safety Section, Box 66614, Baton Rouge, LA 70896. Such comments will be accepted through close of business, February 20, 1993.

Col. Paul W. Fontenot
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Towing, Recovery, and Storage

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs or savings expected by the adoption of these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No change anticipated. The \$9.50 handling fee charged by the Department of Public Safety and Corrections (as detailed in this rule change) is and has been charged by the department for several years. This merely certifies the fee amount.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This rule change requires tow trucks to be equipped with a rotating amber beacon. Most tow trucks are already equipped as such. Beacons satisfying this rule can be purchased for approximately \$100. This rule change would also require that towing companies use invoices which clearly notify the customer as to what charges are being authorized by signature i.e., towing fees and/or repair authorization. This may require certain companies to change the type of billing invoice they are presently using, possibly incurring a printing cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment by these rule changes as they impact the towing industry uniformly.

Linda Dawkins
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services
Office of Community Services

Child Protection Investigation Report Acceptance

The Department of Social Services, Office of Community Services, proposes to adopt the following rule in the Child Protection Investigation Program, in order to set priorities for case response and allocate staff resources to cases identified by reporters as presenting immediate substantial risk of harm to children. This proposed rule was published as an emergency rule in the November 20, 1992, *Louisiana Register*.

The Department of Social Services, Office of Community Services (OCS), hereby amends the rule entitled "Child Protective Services Prioritization" published in the *Louisiana Register*, Vol. 17, No. 4, April 20, 1991, pages 387-388 by deleting Part I, Prioritization and Acceptance of Reports of Child Abuse and Neglect. Part II, Time Limits for Acceptance of Reports, remains in effect. OCS withdraws the notice of intent entitled "Child Protective Services Prioritization", published in the *Louisiana Register*, Vol. 18, No. 3, March 20, 1992, Pages 316-319.

The Department of Social Services, Office of Community Services, published an emergency rule in the *Louisiana Register*, Vol. 18, No. 7, July 20, 1992, on pages 683-684, concerning child protective services prioritization. This emergency rule which excluded low risk cases for acceptance for investigation will expire with the declaration of this new rule. The department has subsequently conducted statewide public hearings on the rule. Public input elicited by the public hearings has been considered in the development of this proposed rule.

The 356 persons who attended and registered at the eight public hearings across the state will receive a copy of the tabulated results of both the written and verbal comments when completely transcribed. Any other interested person may receive the same information by making a written request to Brenda Kelley, Assistant Secretary, OCS, Box 3318, Baton Rouge, Louisiana 70821.

PROPOSED RULE

Report Investigation

Reports will be assigned for investigation when the circumstances of the report indicate either: (1) a cause to believe by the reporter that substantial risk of harm to the child is present and the child's physical, mental, or emotional health is seriously endangered as a result; or (2) the reporter has cause to believe that abuse or neglect has already occurred.

The Office of Community Services will investigate reports of abuse and/or neglect which provide first hand information of an injury, or of evidence of an injury to a child, such as personal observation of photographs, names of witnesses, medical reports, or police reports, which cause a reporter to believe that a child has been injured or is at substantial risk of injury through the action or inaction of the child's caretaker.

It is important to understand that in all cases the reported circumstances of the child, such as, age, health, current condition, and the past history of the family and alleged

perpetrator, such as access to the victim, history of violence or neglect, and parental willingness and/or ability to protect the child, could add information that will either establish or weaken the reason to believe that immediate and substantial risk of harm is likely to be present.

Response Time

The reports classified as presenting low risk to the child with no indication of immediate substantial harm alleged will be assigned a response time of up to 10 working days from the date the report was received.

Anonymous Reports

Reports of alleged child abuse and neglect will be accepted from anonymous reporters.

OCS intake staff shall attempt to obtain the reporter's name and address so that follow up contacts are possible in order to clarify information contained in the report and to improve the assessment of risk to the child. The reporter shall be informed of the confidentiality of the reporter's identity and the legal protection from civil or criminal liability for reporters who report in good faith.

The Office of Community Services, pursuant to a request made during the public hearing process, has sought an attorney general's opinion on the effect of Louisiana law regarding provision of a name and address by a permissive reporter of child abuse and/or neglect. It is the intent of the office to adhere to the interpretation of the law as provided by the attorney general.

Bad Faith Reports

At any time when OCS staff has reason to believe that a report(s) of child abuse and/or neglect has been made in bad faith, all available information shall be turned over to the district attorney for review.

This action would be taken when there is evidence that the reporter made a report known to be false or with reckless disregard for the truth of the report.

Residential Care of Children in State Custody

In order to provide some workload relief for child protection and foster care staff in the Office of Community Services, the positions assigned to the Gary W. program will be transitioned consistent with the federal court's approval of conclusion of OCS activities in the Gary W. case, into monitoring and strengthening of residential foster care programs to prevent occurrence in Louisiana of abusive or neglectful conditions for foster children which resulted in the Gary W. judgment against the state of Louisiana.

Non Reports

According to the Guidelines for a Model System of Protective Services established by the National Association of Public Child Welfare Administrators, child protective services is a specialized field of child welfare which is not an appropriate service for all child and family-related problems. These guidelines have been used to assist staff in making a determination of those situations which do not constitute a report of child abuse and/or neglect. Response from the public during the recent hearings indicated that the majority of participants were in concurrence with these decisions.

Following is a listing of non-reports of child abuse and/or neglect. Brief explanations are included for clarity. If there is a need for medical, mental health, social, or other services to be

provided to the child, his/her family, or the caretaker, appropriate referrals for such services will be made.

NON-REPORTS

Death—of a child without surviving children in home (Information accepted for data collection on child deaths)

Sexual Activity—sibling/minor perpetrator with no alleged parental/caretaker culpability

Sexual Enticement/Harassment and Unspecified Sexual Abuse—without a specific allegation of sexual abuse by caretaker or parent

Venereal Disease—child age 13 or older without a specific allegation of sexual abuse by caretaker/parent

Abandonment—teenager whose parents want agency to take custody due to conflict/behavior and other unspecific family or behavior problem which does not include abuse or neglect

Clothing Inadequate—which does not seriously endanger life or health of the child

Dependency—substance abuse or mental/physical limitation of a parent which does not incapacitate them from providing minimally acceptable care

Drug/Alcohol Abuse—by teenager (with or without parental permission)

Educational Neglect—reports shall be referred to the local school board which is charged under Louisiana law with responsibility for enforcing compulsory school attendance.

Food Inadequate—reporter expresses concern about the family dietary choices which do not seriously endanger the development, health, or life of a child

Lack of Supervision—of a teenager 13 years or older unless mental capacity, physical condition or situational factors indicate serious threat to life or health of the child.

Medical Neglect—no strong likelihood of serious consequences such as failure to provide corrective shoes, glasses, or orthodontia

Shelter Inadequate—which does not seriously endanger the life or health of a child

Interested persons may submit written comments through February 28, 1993, to the following address: Brenda L. Kelley, Assistant Secretary, OCS, Box 3318, Baton Rouge, LA 70821. She is the person responsible for responding to inquiries.

Gloria Bryant-Banks
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Child Protection Investigation Report Acceptance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The cost will be \$500 to print manual material. There are no savings because the revisions to the agency policy for the report acceptance criteria for complaints of child abuse and neglect is expected to keep expenditures within budgetary limits by limiting the intake of reports to the

current level. The Office of Community Services' positions assigned to the Gary W. program could be transitioned to the Child Protection and Foster Care programs consistent with the federal court's approval of conclusion of OCS activities in the Gary W. case. The administrative budget for Gary W. is \$1,475,772. This is inclusive of 37 positions. Although this is not an increase in specific costs, an increase will be realized in the child welfare program should this transition occur. These positions were originally in the child welfare program and were assigned to the Gary W. program office beginning in 1981.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will not be any 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 and employment.

Robert J. Hand
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Job Opportunities and Basic Skills Training Program
(LAC 67:III.Chapter 29 and 31)**

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.Chapter 29, Job Opportunities and Basic Skills Training Program and §3101, Release of Confidential Information.

This action is necessary to reorganize the existing sections for purposes of clarity and correctness. The agency is also publishing information on maximum payments allowed for support services that were established when the program was implemented.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 5. Job Opportunities and Basic Skills
Training Program**

Chapter 29. Organization

Subchapter A. Designation and Authority of State Agency

§2901. General Authority

Effective October, 1990, the Department of Social Services, Office of Family Support, implemented the Job Opportunities and Basic Skills (JOBS) Training Program, which is designed to assist recipients of Aid to Families with Dependent Children

(AFDC) to become self-sufficient by providing needed employment-related activities and support services. The JOBS program of Louisiana is known as Project Independence.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250 et seq. and R.S. 46:450 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 19:

§2902. Implementation

A. Initial Implementation Parishes. The JOBS program was implemented effective October 1, 1990 in the following parishes: Caddo, Calcasieu, East Baton Rouge, Iberia, Lincoln, Orleans, Ouachita, Pointe Coupee, St. Charles and Vernon. These 10 parishes contain 48 percent of the state's current AFDC caseload. They also represent both small and large and urban and rural parishes, as well as the parishes with the highest and lowest unemployment rates. At least one parish from each of the Office of Family Support's, eight administrative regions is included. Following a successful beginning in these parishes the state continued to phase in the program in the remaining parishes by October 1, 1992.

B. January 1992 Implementation Parishes. Project Independence was being implemented in the following parishes: Bossier, Concordia, Franklin, Grant, Jefferson (east and west bank offices), Lafayette, Rapides, St. Bernard, Terrebonne and West Baton Rouge. The program is being administered in these additional parishes in the same manner as in the 10 initial implementation parishes where it was established in October, 1990.

C. Final (October 1992) Implementation Parishes

1. Complete implementation of Project Independence has expanded to include the following parishes: Ascension, Lafourche, Livingston, St. John, St. Landry, St. Martin, St. Tammany, and Tangipahoa. The program is being administered in these additional parishes in the same manner as in the 20 parishes where it is currently operational.

2. Minimal implementation of Project Independence has been done in the following parishes: Acadia, Allen, Assumption, Avoyelles, Beauregard, Bienville, Caldwell, Cameron, Catahoula, Claiborne, DeSoto, Evangeline, East Carroll, East Feliciana, Iberville, Jackson, Jefferson Davis, LaSalle, Madison, Morehouse, Natchitoches, Plaquemines, Red River, Richland, Sabine, St. Helena, St. James, St. Mary, Tensas, Union, Vermilion, Washington, Webster, West Carroll, West Feliciana, and Winn. A minimal program includes high school or equivalent education, either on-the-job training or job search, and information and referral to employment services.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.0 and R.S. 46:451 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:1227 (December 1991), LR 18:967 (September 1992), LR 19:

§2903. Program Administration

A. Responsibilities of Office of Family Support

1. The JOBS program is administered by OFS state office, regional and parish staff.

2. The Department of Social Services implements a case management system through the newly created positions of case managers in each OFS parish office to assist JOBS participants in their efforts to become economically independent. Case managers: assess the participant's family circumstances; education and training status and level of job readiness; negotiate with the participant an employability plan that is realistic and achievable; provide positive intervention and act as participant advocate to maximize effectiveness of the program; select and arrange for appropriate JOBS program component participation; and monitor program activities.

B. Coordination with Other Service Providers. To maximize the potential that the JOBS program offers to AFDC recipients the Department of Social Services, coordinates with the Departments of Health and Hospitals, Labor, Education and Economic Development, as well as other providers of program components and services.

C. Louisiana implements a grievance procedure, as mandated by federal regulations at 45 CFR 251.4, for resolving displacement complaints by regular employees or their representatives relating to JOBS participants. Also, a grievance procedure was implemented in accordance with federal regulations at 45 CFR 251.5 for resolving complaints by or on behalf of JOBS participants in a work-related program or activity. This grievance procedure hears complaints relating to on-the-job working conditions, workers' compensation coverage and wage rates used to calculate the hours of participation required of participants in the Community Work Experience Program.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 45 CFR 250.33, R.S. 460.3(A)(3), R.S. 46:453(B), 45 CFR 251.4 and 45 CFR 251.5.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:646 (July 1991), LR 17:973 (October 1991), LR 19:

Subchapter B. Participation

§2910. Individual Participation Requirements

All AFDC recipients are mandatory participants unless determined exempt in accordance with 45 CFR 250.30 or 250.33.

1. Regulations at 45 CFR 250.30 (b)(9)(i) mandate that all non-exempt applicants and recipients with children over age three, or an age less than three but not less than one, participate in the JOBS program as an eligibility condition for receipt of AFDC benefits. Louisiana exercises the option to require participation of parents with children over age one. This age limitation is overridden in the case of the custodial parent under age 20 who has not completed high school, since the legislation requires that such an individual participate in the education component of the program regardless of the age of the dependent child.

2. Regulations at 45 CFR 250.33 require participation of at least one parent in any family eligible for AFDC by reason of the unemployment of the parent who is the principal wage earner. Louisiana exercises the option to require participation of both parents unless one or both of them meet exemption criteria.

3. Any parent under the age of 25 in a AFDC-Unemployed

Parent (AFDC-UP) case, who has not completed high school or an equivalent course of education, is allowed to meet the 16-hour per week work requirement by participating in educational activities as defined at 45 CFR 250.44(a). Additionally, the second parent in any AFDC-UP case, regardless of the age of that parent, may be placed in an educational component provided the first parent is participating 16 hours per week in a work activity or, if under 25 without a high school or equivalent education, in educational activities.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 250.33, and 250.44.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 18:80 (January 1992), LR 19:

§2911. Failure to Participate and Conflict Resolution

A. Failure to participate in the JOBS program without good cause will result in progressive levels of sanctioning in accordance with 45 CFR 250.34.

B. Participant-requested conciliation is limited to one time per component.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.34 and 250.36, and R.S. 460.3(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 18:870 (August 1992), LR 19:

Subchapter C. Activities and Services

§2916. Program Components

Program components are the employment-related activities that may be provided to a participant:

1. education;
2. job skills training;
3. job readiness training;
4. job development and placement;
5. job search;
6. on the job training;
7. community work experience program.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq. and 45 CFR 250.63.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:1227 (December 1991), LR 19:

§2917. Support Services

Support services include child care, transportation and other employment-related expenses designed to eliminate or moderate the most common barriers to employment.

1. Payment can be authorized for care in Class A centers, registered homes or in the child's home.

a. Participants with children in family child day care homes that care for only related children shall be eligible for reimbursement of child care expenses upon receipt of the initial application to become a registered home. However, if such application is subsequently disapproved following inspection by the state fire marshal, the participant is not eligible for further reimbursement until notification of registration approval is received.

b. Child Care Payment Rates

i. The following is the Standard Rate Schedule for payment for child care services provided to the children of Project Independence participants. The statewide limit is

established as the maximum amount allowable based upon the provider type, age of child, and the type of care provided.

STANDARD RATE SCHEDULE
Regular Care

CHILD UNDER AGE 2				CHILD AGE 2 AND OLDER				
CLASS A CENTERS	Full Time		Part Time		Full Time		Part Time	
	Monthly	\$238.30	Monthly	\$119.15	Monthly	\$216.50	Monthly	\$108.25
	Weekly	55.00	Weekly	27.50	Weekly	50.00	Weekly	25.00
	Daily	11.00	Daily	5.50	Daily	10.00	Daily	5.00
	Hourly	1.38	Hourly	1.38	Hourly	1.25	Hourly	1.25
ALL OTHER PROVIDERS	Full Time		Part Time		Full Time		Part Time	
	Monthly	\$216.50	Monthly	\$108.25	Monthly	\$216.50	Monthly	\$108.25
	Weekly	50.00	Weekly	25.00	Weekly	50.00	Weekly	25.00
	Daily	10.00	Daily	5.00	Daily	10.00	Daily	5.00
	Hourly	1.25	Hourly	1.25	Hourly	1.25	Hourly	1.25

ii. All rates herein are established as maximum allowable amounts; payments will be the provider's actual charges or the maximum rate, whichever is less. Daily rates are based on eight hours per day; weekly rates are based on five days per week; monthly rates are based on 4.333 weeks per month. Part-time care is considered to be 20 hours per week or less. Part-week care is considered to be fewer than five days per week, paid at the daily rate. (Example: A Project Independence participant in a component that is scheduled for three days per week would be eligible for the days of participation only.)

2. Transportation as support service:

a. payments may not exceed \$500 per participant per month;

b. participants who become ineligible for AFDC due to earned income are eligible for a transportation payment of \$33.33 1/3 per month, this paid as a one-time allotment of \$100 for the 90-day period following ineligibility.

3. Other supportive services:

a. payment of union dues not to exceed \$100;

b. payments not to exceed a combined total of \$100 per fiscal year may be made for certain costs deemed necessary such as eyeglasses, uniforms, and safety equipment as noted at Section 4.1 of the Supportive Services State Plan;

c. the purchase of refreshments at a maximum cost of \$1 per day per participant is allowed for in-house component delivery. Supplies will be purchased in bulk from vendors following state procurement rules and regulations, and utilized in accordance with the projected numbers of participants and days of activities the supplies are to cover.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 250, 255, 257, and R.S. 46:456 and 457

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 and 748 (July 1992), LR 18:1268 (November 1992), LR 19:

Chapter 31. Confidentiality

§3101. Release of Confidential Information

See Subpart 1 (General Administrative Procedures) Chapter 1 (Confidentiality), §101. Release of Confidential Information.

Interested persons may submit written comments within 30 days to: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, Louisiana, 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on February 25, 1993 in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**Rule Title: Reorganization of the LAC, JOBS
Program Section**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There are no costs or savings to state or local government associated with this rule. The rule only proposes to reorganize the section of the Louisiana Administrative Code that concerns the JOBS Program. It also adds information about the maximum payments allowed for certain supportive services, but these payment maximums have been in effect since the program was implemented. These include the support service cost limits of \$500 per month for transportation, \$100 per year for union dues, and an annual

amount of \$100 for certain costs deemed necessary for improving the employability of the participant (such as eyeglasses, job-related safety equipment and uniforms). Parish administrators are allowed to establish lower limits on transportation in accordance with their available budget.

In state fiscal year 91/92 the total cost for JOBS-related expenditures, including component and supportive services, child care and administration was \$25,157,255 (\$18,125,556 federal). The JOBS Program is unusual because, except for child care, it is a capped entitlement. This means that all eligible costs are federally matchable but only up to a preset level, the amount of which varies from federal fiscal year to fiscal year. For the state to continue to receive such funds, its JOBS Program must also meet specific performance criteria. These caps have been established as one means of controlling total program cost.

State government's actual expenditure in FY 91/92 was \$2,301,197 for transportation services and \$106,090 for union dues and other supportive services.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no new effect on state or local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no new cost or economic benefit to persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no new estimated impact on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Transportation and Development Office of Compliance Programs

Minority Participation Program (LAC 70:XIX.Chapter 1)

In accordance with the applicable provisions of the Administrative Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Department of Transportation and Development intends to adopt a rule entitled "Minority Participation Program", in accordance with the provisions of Executive Order EWE 92-28, R.S. 47:820.51 and R.S. 48:234. This proposed rule establishes participation in state-funded construction projects administered by DOTD, included is certification criteria, procedures for project selection, bid requirements and contract administration procedures.

Copies of this proposed rule may be obtained from the address below or from the Office of the State Register, 1051

North Third Street, Baton Rouge, LA 70802, 504-342-5015.

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: Frances B. Gilson, Compliance Programs Director, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245, 504-379-1382.

Jude W.P. Patin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES Rule Title: Minority Participation Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It will cost DOTD approximately \$73,752 during the first year to implement a state set-aside program. This figure includes the cost of employing two additional compliance specialists, equipment, supplies, printing and associated expenditures. The estimated cost for the program for the following two years will be less due to the initial purchase of equipment during the first year. A five percent inflation rate, however, was added for salaries and operating expenses.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Black, women and hispanic owned small businesses will benefit from this program by the ability to participate to the fullest extent possible in DOTD construction contracts funded by state revenues.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that black, women and hispanic owned small businesses may benefit by as much as nine million dollars in contractual work the first year which will have a beneficial effect on competition and employment.

Jude W.P. Patin
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Transportation and Development Real Estate

Relocation and Acquisition Policies (LAC 70:XVII.Chapter 1)

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 adopt the proposed rule entitled "Uniform Relocation Assistance and Real Property Acquisition for Federally and Federally Assisted Programs and State Programs", in accordance with the provisions of R.S. 38:3107. The text of the proposed rule appears in its entirety in the March 1989 edition of the *Louisiana Register*. Copies may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, 504-342-5015 or from the address below.

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: James M. Dousay, Real Estate Administrator, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245, 504-379-1736.

Jude W. P. Patin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Uniform Relocation Assistance and
Real Property Acquisition Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation costs of the Uniform Relocation Assistance and Real Property Acquisition Regulations will be negligible since the department has conformed to these rules since April 2, 1989.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections will result from the implementation of these regulations.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

The department amicably acquires or expropriates an average of 895 parcels of land annually at a cost of approximately \$14,000,000. The owners of these properties are compensated fair market value, as well as any associated damages to remaining properties. The economic benefits to displaced persons as a result of the regulations total approximately \$1.5 million annually under the Relocation Assistance Program in the form of replacement housing supplements and moving costs. These

payments are made to displaced residential and business occupants who are required to relocate as a result of transportation projects.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment. This program is designed to acquire property from individuals at fair market value for the construction of transportation projects; and the relocation part of the program is an assistance program designed to put persons displaced by roadway projects back into the same situation following their displacement.

Jude W. P. Patin
Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Treasury Board of Trustees of the Louisiana State Employees Retirement System

Disability Application

The Board of Trustees of the Louisiana State Employees' Retirement System, at its meeting on November 17, 1992, adopted the following rule concerning procedures for processing disability applications. These procedures, effective January 1, 1993, were published as an emergency rule in the December, 1992 issue of the *Louisiana Register*.

Procedures for Processing Disability Applications

1. Receive application for disability retirement:
 - a. make sure applicant is eligible;
 - b. review application (Form ER-3) for completeness;
 - c. review examining physician's report for completeness and to ensure that he recommends disability retirement;
 - d. review disability report by immediate supervisor and report by human resource administrator (Form ER-3A) for completeness.

If applicant is not eligible, they will be notified immediately by letter. If the application or any of the required forms are incomplete or missing, return them to the appropriate person for completion.

2. Determine type of disability and the appropriate disability board doctor for the examination:

- a. if the condition is terminal, forward medical records to the doctor for review and recommendation;
- b. if the condition is not terminal, contact the appropriate doctor to schedule an appointment. Notify the applicant of the appointment date and time in writing.

3. Receive the written recommendation from the doctor:
 - a. review the doctor's recommendation and determine if the application should be approved, disapproved or deferred. Approved applications will be unconditional or for a specified time period based on the individual situation. In all cases, the recommendation of the doctor will determine if the application is approved or disapproved. If the doctor's

recommendation is unclear, the file will be forwarded to the retirement benefits manager for review;

b. if the retirement benefits manager cannot make a clear determination, the assistant director, retirement benefits manager and retirement benefits supervisor will meet to discuss the case and make a determination. The doctor will be contacted for clarification or another doctor will be consulted when necessary;

c. any unusual cases will be presented to the board for their review and determination.

4. When the final determination is made, the applicant will be notified in writing and a copy will be forwarded to the agency.

5. The approved applicants will be listed on the monthly retirement supplement which is presented to the board for approval.

6. Twice annually, in June and December, the board will receive a summary report of the number of applications received, the number approved, the number disapproved, a summary of the types of disabilities, the average age of approved applicants, the average number of years of state service, and the agencies of the applicants.

Interested persons may make inquiries of or submit written comments to: Thomas D. Burbank, Jr., Executive Director, Louisiana State Employees' Retirement System, Box 44213, Baton Rouge, LA 70804-4213.

Thomas D. Burbank, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES Rule Title: Disability Application

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs anticipated from the adoption of this rule.

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 government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition and employment from implementation of this rule.

Thomas D. Burbank, Jr.
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Election of Active Member Trustees

In accordance with R.S. 11:511 and 515, notice is hereby given that the Louisiana State Employees' Retirement System proposes to adopt the following rules to govern the election of trustees who are active members of the system.

Rules for Election of Active Member Trustees

I. General Schedule

Second Monday in July — Nominations closed.

Second Friday in July — Drawing to determine position on ballot.

Fourth Friday in October — Last day that information on candidates and ballots are to be mailed to agencies.

First Friday in December — All ballots returned to system by close of business (4:30 p.m.).

Second Tuesday in December — Ballots counted and verified.

Regular December meeting — Board accepts certified ballot count and authorizes publication of results.

Regular January meeting — Elected members take position on board.

II. Election Rules

A. An active member candidate for a vacant position on the Board of Trustees must be an active member of the system with at least 10 years of credited service (excluding any military service credit) as of the second Monday in July, the date on which nominations close. The Board of Trustees shall accept the name and Social Security number of every candidate nominated by petition of 25 or more members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning members' signatures must be accompanied by their Social Security number. All nominations for the Board of Trustees election must be in the office of the Retirement System no later than the second Monday in July, close of business (4:30 p.m.).

B. No department may be represented by more than two trustees. Department, for board election purposes, means the 20 departments of the Executive Branch of State government as defined in R.S. 36:4(A), the Office of the Governor, the Office of the Lieutenant Governor, the Judicial Branch, and the Legislative Branch of state government.

C. There will be a drawing at 11:00 a.m. on the second Friday in July, in the Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA to determine the position each candidate will have on the ballot. All candidates are invited to attend or send a representative to the drawing, but it is not mandatory.

D. Ballots will be distributed to each department (agency) by the fourth Friday in October, with a self-addressed envelope for returning the ballot. Every active (contributing) member appearing on the May Monthly Retirement Reports will receive a ballot for voting. Participants in the DROP Program will vote in the active member election and will receive ballots mailed to

their homes. The signature of the member must appear on the official ballot return envelope for comparison with the records of the system. Those envelopes received as postmarked or date-stamped-in will be placed in a ballot file for counting by the ballot counting committee, thus assuring that only eligible members vote and an absolute secret ballot will be held. Ballot envelopes received without the name/Social Security number sticker provided by the Retirement System, ballot envelopes that do not bear the member's proper signature (not printed), and ballots received after the close of business on the first Friday in December will be rejected. Ballots must be returned to the Retirement System office at 8401 United Plaza Boulevard, First Floor, Box 44213, Baton Rouge, LA 70804.

E. Each candidate for the office of Trustee may name no more than two members to the ballot counting committee and the director shall name such additional members as necessary to complete the count. All valid ballots will be counted on the second Tuesday in December and the envelopes destroyed. The ballot counting committee shall submit a written report of the election results to the Board of Trustees no later than the regular December meeting of the Board of Trustees.

F. Upon receipt of the results of the election, the Board of Trustees will promulgate the election and notify the successful candidates of their election and also notify the Secretary of State in order that the candidates may take their oath of office and file it with the Secretary of State within the time specified by law.

Interested persons may submit data, views, arguments or inquiries with respect to the proposed rules, in writing, to Thomas D. Burbank, Jr., Executive Director, Louisiana State Employees' Retirement System, Box 44213, Baton Rouge, LA 70804.

Thomas D. Burbank, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Rules for Election of Active Member Trustees

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.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

There will be no costs or 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 and employment

Thomas D. Burbank, Jr.
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Election of Retired Member Trustees

In accordance with R.S. 11:511 and 515, notice is hereby given that the Louisiana State Employees' Retirement System proposes to adopt the following rules to govern the election of trustees who are retired members of the system.

Rules for Election of Retired Member Trustees

I. General Schedule

Second Monday in July — Nominations closed.

Second Friday in July — Drawing to determine position on ballot.

Fourth Friday in October — Last day that information on candidates and ballots are to be mailed to retirees.

First Friday in December — All ballots returned to system by close of business (4:30 p.m.).

Second Tuesday in December — Ballots counted and verified.

Regular December meeting — Board accepts certified ballot count and authorizes publication of results.

Regular January meeting — Elected members take positions on board.

II. Election Rules

A. A candidate for a vacant position of retired member trustee on the Board of Trustees must be a retired member of the system who has been on retired status (not including retired status under the Deferred Retirement Option Plan) by the date on which nominations close. The Board of Trustees shall accept the name and Social Security number of every candidate nominated by petition of 25 or more retired members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning retired members' signatures must be accompanied by their Social Security number. All nominations for the Board of Trustees election must be in the office of the Retirement System no later than the second Monday in July, close of business (4:30 p.m.).

B. For purposes of this rule, the term "retired member" shall not include any person still employed by the state but treated as retired under the Deferred Retirement Option Plan.

C. There will be a drawing on the second Friday in July at 11 a.m. in the Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA to determine the position each candidate will have on the ballot. All candidates are invited to attend or send a representative to the drawing, but it is not mandatory.

D. Ballots will be distributed to each retired member by the fourth Friday in October, with a self-addressed envelope for returning the ballot. Every retiree member appearing on the May Retiree Master List will receive a ballot for voting. Since two retired member trustees are to be elected, each retiree may vote for two candidates. The signature of the retired member must appear on the official ballot return envelope for comparison with the records of the system. Those envelopes received as postmarked or date-stamped-in will be placed in a

ballot file for counting by the ballot counting committee, thus assuring that only eligible retired members vote and an absolute secret ballot will be held. Ballot envelopes received without the name/Social Security number sticker provided by the Retirement System, ballot envelopes that do not bear the retired member's proper signature (not printed), and ballots received after the close of business (4:30 p.m.) on the first Friday in December, will be rejected. Ballots must be returned to the Retirement System office at 8401 United Plaza Boulevard, First Floor, Box 44213, Baton Rouge, LA 70804.

E. Each candidate for the office of trustee may name no more than two members to the ballot counting committee and the director shall name such additional members as necessary to complete the count. All valid ballots will be counted on the second Tuesday in December and the envelopes destroyed. The ballot counting committee shall submit a written report of the election results to the Board of Trustees no later than the regular December meeting of the Board of Trustees.

F. Upon receipt of the results of the election, the Board of Trustees will promulgate the election and notify the successful candidates of their election and also notify the Secretary of State in order that the candidates may take their oath of office and file it with the Secretary of State within the time specified by law.

Interested persons may submit data, views, arguments or inquiries with respect to the proposed rules, in writing, to Thomas D. Burbank, Jr., Executive Director, Louisiana State Employees' Retirement System, Box 44213, Baton Rouge, LA 70804.

Thomas D. Burbank, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Rules for Election of Retired Member Trustees

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.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be not effect on competition and employment.

Thomas D. Burbank, Jr.
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Treasury Bond Commission

Expedited Lease Review

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana State Bond Commission intends to amend the commission's rules as originally adopted November 20, 1976.

Pursuant to the provisions of R.S. 39:1410.60(C), the State Bond Commission proposes to adopt the following rule regarding reporting requirements.

EXPEDITED REVIEW OF CERTAIN LEASES

SECTION 1. The provisions of this rule on expedited review of certain leases shall be applicable to all leases that meet the criteria set forth in Section 2 and shall include financed leases as well as conventional leases that do not contain a nonappropriation clause or that do contain an antisubstitution clause. The provisions of this rule are not intended and shall not in any way be interpreted as exempting from Bond Commission approval any form of lease that has traditionally been deemed to constitute debt.

SECTION 2. In order for a proposal lease agreement to be eligible for the expedited review process, all of the following criteria must be met and that fact must be certified in writing by an authorized agent of the government entity seeking approval under the expedited review process:

A. The leased equipment must be specially identified in the proposed lease agreement and the lease must be used to acquire movable property necessary to provide essential governmental services such as those related to safety, sanitation, road and highway construction and repair, health services, communication, education and transportation.

B. If the lease agreement transfers ownership of the leased property to the lessee at the end of the lease term or contains an option to purchase the leased property at a nominal price, the lease agreement must have been entered into in compliance with the public bid law.

C. The governmental entity must have excess or sufficient revenues to cover annual debt service on the lease pursuant to the provisions of R.S. 33:2922.

D. The total amount of the lease cannot exceed the greater of \$100,000 or 10 percent of the government entity's annual revenues.

E. There must have been no default on any debt obligation within the previous five years.

SECTION 3. The governmental entity shall submit the following documents with the proposed lease and the request for approval under this rule.

A. The resolution of the governmental entity authorizing the lease.

B. A copy of the lease agreement.

C. A copy of the governmental entity's current year budget, showing excess revenues pursuant to R.S. 33:2922.

D. A complete summary of the lease on forms approved by the commission.

E. A certification from the governmental entity in the form approved by the commission, attesting to compliance with all of the requirements of this rule.

SECTION 4. On an as needed basis the staff of the State Bond Commission shall mail to the commission members a notice of all leases submitted to the commission staff that meet the criteria for approval under this rule, and that are scheduled for approval by the executive director, along with a copy of the summary of lease form for each lease. Each lease so submitted shall be approved by the executive director of the State Bond Commission 10 days following the mailing of the notice unless a member of the commission, prior to approval of a lease by the executive director, requests that the lease be placed on the agenda at the next Bond Commission meeting.

If any member of the commission requests that a lease submitted to the staff under the provisions of this rule be placed on the agenda, such lease shall be placed on the agenda for consideration at the next commission meeting in accordance with the commission's rules and regulations.

**CERTIFICATION OF COMPLIANCE WITH
CRITERIA FOR
APPROVAL OF LEASE UNDER
EXPEDITED PROCEDURE**

Name of Lessee _____
Name of Lessor _____
Equipment to be Leased _____
Term of Lease _____
Amount of Lease _____
Interest Rate _____

BEFORE ME, the undersigned authority, personally came and appeared _____ who declared that he is the _____ for the Lessee, and does hereby certify that:

The proposed lease agreement is being entered into for the purpose of acquiring movable property necessary to provide essential governmental services, more specifically the following:

If the lease agreement transfers ownership of the leased property to the Lessee at the end of the lease term or contains an option to purchase the leased property at a nominal price, it has been let in accordance with the public bid laws.

The Lessee has excess or sufficient revenues to cover annual debt service on the lease pursuant to the provisions of R.S. 33:2922.

The total amount of the lease does not exceed the greater of \$100,000 or 10 percent of the Lessee's annual revenues.

The Lessee has not been in default on any debt obligation within the previous five years.

The following documents are attached:

- (1) The Resolution of the Lessee authorizing the lease.
- (2) A copy of the lease agreement.
- (3) A copy of the Lessee's current year budget.

Lessee's Agent or Authorized Officer

Sworn to and subscribed before me, this _____ day of _____, at _____, Louisiana.

Notary Public

Interested persons may submit their views and opinions through February 5, 1993, to Rae Logan, Secretary and Director of the State Bond Commission, Twenty-first Floor, State Capitol Building, Box 44154, Baton Rouge, LA 70804.

The commission shall, prior to the adoption of the rule, afford all interested persons reasonable opportunity to submit data, views, or arguments, if requested by 25 persons, or by a committee of either house of the legislature to which the rule change has been referred, as required under the provisions of Section 968 of Title 49.

At least eight working days prior to the meeting of the commission at which a rule or rules are proposed to be adopted, amended or repealed, notice of any intention to make an oral or written presentation shall be given to the director of the commission. If the presentation is to be oral, such notice shall contain the name or names, telephone numbers, and mailing addresses of the person or persons who will make such oral presentation, who they are representing, the estimated time needed for the presentation, and a brief summary of the presentation. Notice of such oral presentation may be sent to all commission members prior to the meeting. If the presentation is to be written, such notice shall contain the name or names of the persons submitting such written statement, who they are representing, and a copy of the statement itself. Such written statement shall be sent to all commission members prior to the meeting.

The commission shall consider all written and oral submissions concerning the proposed rules. Upon adoption of a rule, the commission if requested to do so by an interested person either prior to the adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for or against its adoption.

Mary L. Landrieu
State Treasurer and Chairperson

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
Rule Title: Expedited Review of Certain Leases**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There are no implementation costs to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There is no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

There are no estimated costs to directly affected persons or non-governmental groups. Local governments will benefit by being able to enter into certain leases on more timely basis.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Rae W. Logan
Director

John R. Rombach
Legislative Fiscal Officer

ADMINISTRATIVE CODE UPDATE

CUMULATIVE ADMINISTRATIVE CODE UPDATE
January, 1992 through December, 1992

Vol.	Title:Part.Section	Effect	Month	Page	Location LR 18
1	LAC 10				
	I.113,115	Adopted	Feb	144	
	I.Chapter 27	Adopted	Jan	24	
	V.Chapter 1	Amended	Apr	392	
	VII.301	Amended	Jan	26	
	LAC 35				
	I.1733	Amended	Apr	367	
	I.1737	Amended	Apr	369	
	I.1775	Amended	Apr	368	
	III.5702	Amended	Apr	366	
	III.2101	Amended	Apr	367	
	V.6319	Amended	Apr	367	
	V.6329	Amended	Apr	368	
	VII.8903	Amended	Apr	369	
	XIII.11115	Amended	Apr	366	
	XV.12357	Amended	Apr	366	
	LAC 64				
	I.901	Adopted	Oct	1115	
	I.1101	Adopted	Oct	1116	
2	LAC 7				
	I.105	Adopted	Feb	144	
	XIII.8763	Amended	Sep	954	
	XV.Chapter 95	Amended	Jul	700	
	XXI.11740	Repromulgated	Oct	1115	
	XXI.11771	Amended	Dec	1355	
	XXIII.Chapter 131	Adopted	Mar	247	
	XXIX.15107-15113	Amended	Mar	249	
	XXI.Chapter 117	Amended	Aug	835-840	
	XXIII.Chapter 131	Amended	Sep	953	
	XXXIX.Chapter 209	Adopted	Jun	597	
3	LAC 46				
	I.501	Amended	Jun	599	
	I.511	Adopted	Jun	599	
	I.1117	Amended	Mar	250	
	V.2701,3701	Amended	Oct	1116	
	XXVII.103	Amended	Dec	1378	
	XXVII.Chapter 3	Amended	Dec	1378	
	XXXIII.104	Adopted	Jul	740	
	XXXIII.Chapter 3	Amended	Jul	738	
	XXXIII.415,419	Amended	Jul	741	
	XXXIII.706,707	Adopted	Jul	737	
	XXXIII.Chapter 12	Adopted	Jul	741	
	XXXIII.Chapter 12	Repromulgated	Aug	843	
	XLV.Chapter 67	Adopted	Oct	1123	
	XLV.Chapter 69	Adopted	Jul	744	
	XLV.Chapter 69	Repromulgated	Aug	843	
	XLVII.Chapters 1-17	Amended	Oct	1126	
	XLVII.Chapters 1-17	Repromulgated	Nov	1259	
	XLIX.Chapters 1-15	Repeal/Repromul	Feb	181	
	XLIX.1701	Repromulgated	May	507	
	LIII.729-751	Amended	Mar	273	
	LIII.753,755	Repealed	Mar	274	
	LIII.Chapters 9, 23	Amended	Dec	1378	
	LIV.115,501	Amended	Sep	962	
	LV.307,308	Amended	Jan	30	
	LIX.Chapters 1-9	Amended	Feb	189	
	LX.Chapters 5,9,13	Amended	Jan	51	
	LX.Chapters 7,8	Amended	Mar	269	
	LXVII.Chapter 34	Adopted	Jan	24	
	LXVII.Chapter 103	Amended	Jun	600	
	LXVII.Chapter 105	Adopted	Feb	144	
	LXVII.10307	Amended	Jun	599	
	LXXXV.501	Amended	Apr	380	
	LXXXI.Chapters 1-7	Adopted	Apr	381	
4	LAC 4				
	VII.937	Amended	Mar	269	
	VII.1141,1143	Amended	Jun	610	
	VII.1199,1201	Amended	Jun	611	
	VII.1127,1133	Amended	Dec	1376	
	VII.1209,1241	Adopted	Dec	1376	
	VII.1229	Amended	Mar	267	
	VII.1235	Adopted	Jul	735	
	VII.1237,1275	Amended	Nov	1257	
	VII.1273	Adopted	Mar	265	
	IX.503	Amended	Jun	610	
	IX.503	Amended	Dec	1375	
	IX.2001	Adopted	Jun	610	
	LAC 19				
	X.Chapter 1	Adopted	Dec	1357	
	LAC 34				
	VII..307	Amended	Nov	1256	
5	LAC 76				
	I.301	Amended	May	508	
	I.315	Amended	Mar	290	
	I.317	Amended	Aug	877	
	I.321	Adopted	Jan	82	
	III.107	Adopted	Mar	290	
	V.107	Amended	Oct	1134	
	V.305	Adopted	Oct	1136	
	VII.125	Amended	Mar	294	
	VII.137	Amended	Sep	978	
	VII.163	Adopted	Mar	294	
	VII.201	Adopted	Jan	81	
	VII.201,203	Repromulgated	Feb	198	
	VII.203	Adopted	Jan	82	
	VII.341	Adopted	Feb	199	
	VII.343	Adopted	Nov	1420	
	VII.345	Adopted	Feb	199	

6	LAC 22								
	I.103	Amended	Jan	77					
	I.310	Amended	Nov	1265					
	IX.Chapters 1,2	Repromulgated	Feb	164					
	IX.Chapters 1-4	Adopted	Jan	44					
	IX.Chapters 2,4	Amended	Sep	960					
	LAC 55								
	I.501	Amended	Nov	1256					
	I.1773-1787	Amended	Mar	283					
	I.Chapter 23	Adopted	Mar	283					
	I.Chapter 24	Adopted	Feb	196					
	IX.Chapter 12	Adopted	Aug	866					
7	LAC 25								
	I.Chapter 3	Amended	Oct	1115					
	VII.Chapter 21	Amended	Dec	1356					
	LAC 37								
	III.507,509	Amended	Jul	737					
	LAC 40								
	I.Chapter 7	Repromulgated	Feb	148					
	I.2715	Repromulgated	Mar	257					
	III.Chapters 1-17	Adopted	Feb	167					
	IV.333	Amended	Apr	372					
	IV.309	Adopted	Apr	372					
	XIII.121,133	Amended	Apr	372					
	XIII.121	Repromulgated	May	493					
8	LAC 48								
	I.Chapter 1	Amended	Dec	1390					
	I.Chapter 39	Adopted	Sep	962					
	I.Chapter 39	Amended	Oct	1132					
	I.Chapter 53	Amended	Sep	970					
	I.Chapter 91	Adopted	Jan	57					
9	LAC 48								
	I.Chapter 135	Adopted	Feb	182					
	I.15101	Adopted	Jan	54					
	I.15103	Adopted	Feb	181					
	I.Chapter 161	Adopted	Feb	185					
	V.6303	Amended	Oct	1131					
	V.12305	Repromulgated	Nov	1264					
	VII.703,712	Amended	Aug	845					
10	LAC 61								
	I.4302	Adopted	Dec	1414					
	II.101	Adopted	Mar	287					
	V.909	Amended	Feb	197					
11	LAC 33								
	III.Chapter 15	Amended	Apr	374					
	III.Chapter 21	Amended	Oct	1121					
	III.2132	Adopted	Nov	1254					
	III.3155	Adopted	Feb	150					
	III.3337	Adopted	Mar	262					
	III.3337	Repromulgated	Apr	376					
	III.3525	Adopted	Apr	377					
	III.3795	Adopted	Apr	380					
	III.3805	Adopted	May	496					
	III.3815	Adopted	Jun	610					
	III.4841	Repromulgated	Apr	376					
	III.4865	Adopted	May	493					
	III.4881	Adopted	Feb	158					
	III.4885	Amended	Jan	31					
	III.4887	Amended	Jan	31					
	III.4891	Adopted	Feb	150					
	III.5151	Amended	Oct	1121					
	III.5191	Adopted	Oct	1119					
	III.Chapter 51	Amended	Dec	1362					
12	LAC 33								
	III.6081	Adopted	Jul	707					
	III.6088	Adopted	Mar	258					
	III.6523	Repromulgated	Jan	31					
	III.Chapter 65	Amended	Jul	706					
13	LAC 33								
	V.10305	Repromulgated	Jan	78					
	V.Chapters 1-49	Amended	Jul	723					
	V.Chapter 51	Amended	Jul	723					
	V.10305	Amended	Jul	746					
	V.Chapter 301	Amended	Aug	861					
	V.Subpart 1	Amended	Nov	1256					
	V.Subpart 1	Amended	Dec	1375					
	V.Subpart 1	Amended	Dec	1375					
14SW	LAC 33								
	VII.Chapters 103,105	Adopted	Jan	34					
	VII.Chapter 104	Adopted	Aug	840					
	VII.Chapter 104	Repromulgated	Sep	960					
	VII.10307	Amended	Feb	164					
	VII.1107	Amended	Jul	725					
14WQ	LAC 33								
	IX.Chapter 13	Amended	Jul	730					
	XIII.Chapter 13	Amended	Jul	729					
14UT	LAC 33								
	XI.103,307	Amended	Jul	726					
	XI.Chapters 1-11	Amended	Jul	727					
15	LAC 33								
	XV.Chapters 1,3,7,20	Amended	Jan	34					
	XV.Chapter 14	Repeal/Repromul	Jun	604					
	XV.Chapter 25	Adopted	Jul	718					
	XV.Chapter 25	Repromulgated	Sep	955					
16	LAC 70								
	III.Chapter 9	Adopted	Sep	973					
	III.1101	Adopted	Dec	1415					
	IX.Chapter 7	Adopted	Jul	761					
	XV.Chapter 1	Adopted	Jul	749					
	LAC 73								
	I.309,561	Amended	May	508					
17	LAC 43								
	I.Chapter 8	Adopted	Mar	281					
	I.1515	Amended	Apr	391					
	V.101,103	Amended	Jan	70					
	IX.301,311	Adopted	Dec	1411					
	XI.Chapter 1	Amended	Jan	64					
	XI.Chapter 25	Adopted	Jan	60					
	XII.101	Amended	Aug	852					
	XII.Chapters 1-27	Amended	Aug	852					
18	LAC 28								
	I.111	Amended	Oct	1118					
	I.111	Amended	Nov	1250					
	I.111	Amended	Nov	1250					
	I.313	Adopted	Jun	602					
	I.903	Amended	Nov	1251					
	I.906	Amended	Nov	1249					
	I.909	Amended	Nov	1249					
	I.917	Amended	Nov	1249					
	I.931,933	Amended	Sep	954					
	I.1523	Amended	Jan	29					
	I.1523	Amended	Jan	30					
	I.1525	Adopted	Jun	602					

POTPOURRI

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Office of the Governor
Office of Elderly Affairs

Elderly Assistance Program

The Office of the Governor, Office of Elderly Affairs, is providing clarification of eligibility and reimbursement requirements for the Louisiana Long Term Care Assistance Program in response to interim final regulations published by the Health Care Financing Administration which addresses state operated programs serving patients who utilize medical services subject to provider specific taxes, fees, or assessments under P.L. 102-234. The Louisiana Long Term Care Assistance Program provides up to \$350 of reimbursement of medical expenses incurred in the prior month by qualifying individuals who have no long term care insurance coverage. The term "medical expense" as utilized by this Program means the cost of direct medical care or services which do not include any provider-specific taxes, assessments or fees passed on by providers, including long term care facilities. Any provider tax, fee, or assessment included in nursing facility or other medical expense charges cannot be deducted from gross income in determining net income for this program.

James R. Fontenot
Director

POTPOURRI

Department of Health and Hospitals
Board of Veterinary Medicine

Board Member Nominations

Pursuant to R.S. 37:1515 nominations for a new board member are made by the Louisiana Veterinary Medical Association and submitted to the Office of the Governor. On August 1, 1993, a new five-year term will begin. Persons who wish to submit a nomination may do so in writing to the offices of the LVMA, 2003 Forsythe Avenue, Monroe, LA 71201. The deadline for nominations is February 28, 1993. Nominees must meet the requirements set forth in the statute but are not required to be members of LVMA.

Vikki L. Riggle
Executive Director

POTPOURRI

Department of Health and Hospitals
Board of Veterinary Medicine

Examinations

The Board of Veterinary Medical Examiners will administer the state and national board examinations on the following dates:

EXAMINATION	DATE	DEADLINE TO APPLY
National Board Examination	Tuesday, April 13, 1993	4 p.m., Friday, February 26, 1993
Clinical Competency Test	Wednesday, April 14, 1993	4 p.m., Friday, February 26, 1993
LA State Board Examinations	Thursday, April 15, 1993	4 p.m., Friday, March 12, 1993

Applications and information may be obtained from the board office by calling (504)342-2176.

Vikki L. Riggle
Executive Director

POTPOURRI

Department of Health and Hospitals
Office of the Secretary

Americans with Disabilities Act

The Department of Health and Hospitals is conducting a self-evaluation of its current services, policies, and practices as required by the federal regulations, 28 CFR 35.105(a), implementing the Americans with Disabilities Act of 1990. Persons, including individuals with disabilities or organizations representing individuals with disabilities, are invited to submit comments relative to this self-evaluation process prior to February 26, 1993. Comments may be sent to any of the following departmental contact persons:

Mark T. Ott, Division of Program Support, Box 871 - Bin #15, Baton Rouge, LA 70821-0871. Phone: 504-342-6410;

Claudette Hill, Office of Mental Retardation/Developmental Disabilities, Box 3117 - Bin #21, Baton Rouge, LA 70821-3117. Phone: 504-342-9526;

Delores Jones, Office of Mental Health, Box 4049 - Bin #12, Baton Rouge, LA 70821-4049. Phone: 504-342-2587;

Anna Lewis, Office of Alcohol and Drug Abuse, Box 3868 - Bin #9, Baton Rouge, LA 70821-3868. Phone: 504-342-9521;

Donald Fontenot, Office of Management and Finance, Box 1349 - Bin #5, Baton Rouge, LA 70821-1349. Phone: 504-342-4664;

Andryetta Yarbrough, Office of Public Health, 325 Loyola Avenue, Room 307, New Orleans, LA 70160. Phone: 504-568-5340.

J. Christopher Pilley
Secretary

POTPOURRI

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

Case Management Services

The Department of Health and Hospitals seeks to correct a typographical error in the rule on case management services for infants and toddlers which was published in *Louisiana Register* Vol. 18, No.8 on August 20, 1992. On page 851, item number 15 states that the maximum monthly caseload must not exceed 13 cases per half-time equivalent employee. The correct maximum monthly caseload is 18 per half-time equivalent employee.

J. Christopher Pilley
Assistant Secretary

POTPOURRI

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

Certified Registered Nurse Anesthetists

The Department of Health and Hospitals seeks to correct typographical errors contained in the final rule on the reimbursement of anesthesiology services published in the *Louisiana Register*, Volume 18, No. 9 on September 20, 1993. In the Section IV CPT-4 Procedure Codes Reimbursed on Flat Fee Basis, two procedure codes for certified registered nurse anesthetists (CRNAs) have incorrect notations. In accordance with the State Nursing Practice Act, procedure code 36440 may be performed by a CRNA; however, procedure code 36640 may not be performed by a CRNA.

J. Christopher Pilley
Secretary

POTPOURRI

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

Third Party Liability Unit

The Department of Health and Hospitals seeks to update the information contained in the 1989 rule on insurance notification and payment procedures wherein Medicaid of Louisiana is involved. This rule was published in the *Louisiana Register* Vol. 15, No. 6 on June 20, 1989. Specifically, the telephone number and the mailing address for the Bureau of Health Services Financing Third Party/Recovery Unit needs to be updated. Insurance carriers and providers seeking additional information regarding any of the provisions contained in this rule may contact the Bureau of Health Services Financing, Third Party/Recovery Unit. The mailing address is Box 91030, Baton Rouge, LA 70821-9030 and the telephone number is 504-342-9250.

Christopher Pilley
Secretary

POTPOURRI

**Department of Natural Resources
Office of the Secretary**

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 83 claims in the amount of \$220,181.35 were received in the month of October, 1992. Fifty-one claims in the amount of \$148,301.18 were paid and two claims were denied.

Loran coordinates of reported underwater obstructions are:

28569	46858	Jefferson
28672	47049	Jefferson
28667	46869	Plaquemines
29096	46942	St. Bernard
26900	46966	Vermilion
27961	46893	Terrebonne
28628	46894	Jefferson
28828	46799	Plaquemines
28681	46868	Plaquemines
28582	46855	Jefferson
28030	46850	Terrebonne
27256	46381	St. Mary
26626	46976	Cameron
28346	46828	Lafourche
26644	46978	Cameron
28316	46829	Lafourche
28628	46894	Jefferson

28946	46954	St. Bernard
28978	46902	Plaquemines
27575	46921	Vermilion
28708	47030	Lake Pontchartrain
28884	46994	St. Bernard
27621	46911	St. Mary
28265	46825	Lafourche
27501	46927	Iberia
27374	46936	Vermilion
29102	46915	Plaquemines
26935	46956	Cameron
27953	46849	Terrebonne

27855	46847	Terrebonne
27876	46848	Terrebonne
27870	46865	Terrebonne

A list of claimants, and amounts paid, may be obtained from Martha A. Swan, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales
Secretary

A list of claimants and amounts paid may be obtained from Martha A. Swan, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales
Secretary

POTPOURRI

**Department of Natural Resources
Office of the Secretary**

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 77 claims in the amount of \$192,498.07 were received in the month of November, 1992. Twenty-three claims in the amount of \$65,391.05 were paid and one claim was denied.

Loran coordinates of reported underwater obstructions are:

26775	46975	Cameron
27655	46901	St. Mary
28287	46825	Lafourche
27956	46850	Terrebonne
28111	46873	Terrebonne
27976	46837	Terrebonne
28200	46825	Lafourche
28118	46810	Lafourche
26608	46979	Cameron
26625	46976	Cameron
29067	46935	St. Bernard
28267	46854	Lafourche
27524	46914	St. Mary
28273	46822	Lafourche
29006	46782	Plaquemines
28854	46892	Plaquemines
28561	46867	Jefferson
27924	46856	Terrebonne
27924	46856	Terrebonne
27450	46921	St. Mary
27551	46921	Iberia

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 44 claims in the amount of \$115,381.13 were received in the month of December, 1992. Twenty-two claims in the amount of \$63,951.63 were paid and six claims were denied.

Loran coordinates of reported underwater obstructions are:

27620	46887	St. Mary
24724	46875	Iberia
28297	46863	Terrebonne
29029	46927	St. Bernard
27924	46856	Terrebonne
27744	46880	Terrebonne
28381	46832	Lafourche
27318	46945	Vermilion
27019	46952	Cameron
27374	46936	Iberia
27480	46921	Iberia
28155	46821	Terrebonne
28322	46828	Lafourche

A list of claimants and amounts paid may be obtained from Martha A. Swan, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales
Secretary

POTPOURRI

Department of Social Services Office of Community Services

Weatherization Assistance Public Hearing

The Department of Social Services, Office of Community Services will submit a state plan to the U.S. Department of Energy around February 15, 1993 for the Weatherization Assistance Program pursuant to 10 CFR 440. As a requirement of this plan, a public hearing must be held.

The purpose of the public hearing is to receive comments on the proposed state plan for the Weatherization Assistance Program for low-income persons, particularly the elderly and handicapped, in the state of Louisiana. The public hearing is scheduled for Wednesday, February 3, 1993, at 10 a.m. in Baton Rouge, LA at 333 Laurel Street, eighth floor conference room.

Copies of the plan can be obtained prior to the hearing by contacting the Department of Social Services, Office of Community Services at (504) 342-2272 or Box 44367, Baton Rouge, LA 70804-4367. Interested persons will be afforded an opportunity to submit written comments by February 3, 1993, to the Office of Community Services at the above address.

Gloria Bryant-Banks
Secretary

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ER—Emergency Rule **FA—Fee Action**
L—Legislation **N—Notice of Intent**
P—Potpourri **PFA—Proposed Fee Action**
PPM—Policy and Procedure Memorandum **R—Rule**

