

**LOUISIANA
ADMINISTRATIVE CODE**

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Title 33

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Executive Orders

EXECUTIVE ORDER EWE 95-29

Mortgage Revenue Bond Allocation for Various Parishes

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order EWE 92-47 establishing (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1995 (the "1995 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1995 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Louisiana Housing Finance Agency (the "agency") has requested an allocation from the 1995 Ceiling to be used in connection with a program (the "program") of financing mortgage loans for first time homebuyers in the amount of \$4,000,000 in each of the areas served by the below listed public trusts, in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended; and

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

WHEREAS: it is the intent of the governor of the state of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1995 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$20,000,000	Louisiana Housing Finance Agency for the benefit of: Bossier Public Trust Financing Authority; Monroe-West Monroe Public Trust Financing Authority; Houma-Terrebonne Public Trust Financing Authority; St. Bernard Home Mortgage Authority; St. Tammany Public Trust Financing Authority	Single Family Mortgage Revenue Bonds

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

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through December 31, 1995, provided that such bonds are delivered to the initial purchasers thereof on or about December 31, 1995.

SECTION 4: The undersigned certifies, under penalty of perjury, that the allocation granted hereby was not made in

consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

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

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

SECTION 7: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of October, 1995.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9511#010

EXECUTIVE ORDER EWE 95-30

Bond Allocation for Lake Charles Harbor and Terminal District

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order EWE 92-47 establishing (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1995 (the "1995 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1995 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Lake Charles Harbor and Terminal District has requested an allocation from the 1995 Ceiling to be used in connection with the financing of a manufacturing facility for Polycom Huntsman, Inc. For the production of thermoplastic compounds (the "project") located in Calcasieu Parish, Louisiana; and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the state of Louisiana, and the parish of Calcasieu; and

WHEREAS: it is the intent of the governor of the state of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1995 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$8,000,000	Lake Charles Harbor and Terminal District	Polycom Huntsman, Inc.

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

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through December 31, 1995, provided that such bonds are delivered to the initial purchasers thereof on or about December 31, 1995.

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

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

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

SECTION 7: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of October, 1995.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9511#011

EXECUTIVE ORDER EWE 95-31

Mortgage Revenue Bond Allocation for the City of Shreveport

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order EWE 92-47 establishing (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1995 (the "1995 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1995 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Shreveport Home Mortgage Authority (the "authority") has requested an allocation from the 1995 Ceiling to be used in connection with a program (the "program") of financing mortgage loans for first time homebuyers throughout the City of Shreveport (the "city") in

accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended; and

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

WHEREAS: it is the intent of the governor of the state of Louisiana that this executive order, to the extent inconsistent with the provisions of Executive Order EWE 92-47, supercedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1995 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$8,000,000	Shreveport Home Mortgage Authority	Single Family Mortgage Revenue Bond

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

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through December 31, 1995, provided that such bonds are delivered to the initial purchasers thereof on or about December 31, 1995.

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

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

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

SECTION 7: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of October, 1995.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9511#012

EXECUTIVE ORDER EWE 95-32

Super Bowl XXXI

WHEREAS: the National Football League Super Bowl is recognized as one of the nation's great sporting events; and

WHEREAS: the city of New Orleans and the Louisiana Superdome have demonstrated the capacity of hosting successfully seven Super Bowls; and

WHEREAS: hosting the National Football League Super Bowl provides tremendous economic benefit to the economy of the state of Louisiana through direct spending, increased tax collection and national image enhancement; and

WHEREAS: the National Football League has awarded the Super Bowl XXXI in January, 1997 to New Orleans; and

WHEREAS: the Governor of the state of Louisiana has responsibility for the management and operation of the Superdome pursuant to Act 541 of the 1976 Regular Session of the Louisiana State Legislature as amended; and

WHEREAS: a contract for management of the Superdome was entered into with Facilities Management of Louisiana, Inc. Pursuant to Act 64 of the 1977 Regular Session of the Louisiana Legislature; as amended; and

WHEREAS: an agreement has been reached with the National Football League concerning rental of the Superdome and the Ernest N. Morial Convention Center, concession and souvenir revenues, and other game day expenses; and

WHEREAS: Facilities Management of Louisiana's contract provides that they are compensated on the reduction of expenses and shall receive credit for income lost as a result of action by the state, including any loss which may occur under the agreement with the National Football League;

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

SECTION 1: Pursuant to the provisions of Act 541 of 1976 and Act 64 of 1977, and other Constitutional and statutory authority, I do hereby order the following:

1. The State of Louisiana shall provide the National Football League with use of the Louisiana Superdome free of any rental charge that would otherwise be due by the National Football League to produce the National Football League Super Bowl XXXI at the Louisiana Superdome.

2. Facilities Management of Louisiana, Inc. shall receive an income credit equal to an amount of two hundred thousand and no/100 (\$200,000.00) dollars to compensate it for lost rental for the National Football League Super Bowl XXXI Game.

3. The Game Day expenses for the National Football League Super Bowl XXXI Game shall be paid through the operating funds of the Louisiana Stadium and Exposition District.

4. The National Football League shall be entitled to all revenues from parking, concession and novelties sold at the Louisiana Superdome on the day of the National Football League Super Bowl XXXI Game.

SECTION 2: The provisions of this Executive Order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capital, in the City of Baton Rouge, on this 20th day of October, 1995.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9511#013

EXECUTIVE ORDER EWE 95-33

Mississippi River Road Commission

WHEREAS: the Department of Culture, Recreation and Tourism and the Department of Transportation and Development wish to address the widespread concerns regarding the deterioration of the Great Mississippi River Road Corridor as a scenic, historic and educational resource; and

WHEREAS: the Great Mississippi River Road consists of a corridor approximately 70 miles in length located on each side of the Mississippi River between Baton Rouge and New Orleans, including the river, levees, and adjacent lands and cultural resources; and

WHEREAS: the National Trust for Historic Preservation has designated the corridor to be among the nation's eleven most endangered historic properties; and

WHEREAS: legitimate concerns regarding the River Road as an overall scenic, historic, cultural and tourism resource need to be addressed; and

WHEREAS: throughout the 19th century, the River Road consisted largely of plantation lands, boasting some of the South's most architecturally significant plantation homes, with an agrarian character interrupted occasionally by brick sugar mills; and

WHEREAS: during the 20th century, several developments, most notably the dredging of the Mississippi River for ocean-going vessels, stimulated industrial growth, including coal terminals, refineries, and chemical plants, in the area; and

WHEREAS: the design of these major industrial facilities was completed with no regard for their impact on the historic plantation landscape of the region, many set directly on the River Road with no buffer zones or screening; and

WHEREAS: the issue of visual intrusion needs to be addressed as new industrial facilities are developed and obsolete plants are replaced; and

WHEREAS: in the 1930s the noted pioneer restoration architect Richard Koch photographed 80 of what he considered to be the finest plantation houses in the River Road region. Today less than half of these are still standing, and some of those that remain face uncertain futures; and

WHEREAS: a vast majority of these properties have been lost to demolition by neglect caused by owner indifference, a situation considerably exacerbated by fragmented property

ownership. Typically, the numerous owners cannot agree on what to do with the property; therefore the property stands deteriorating year after year, subject to abuse by vandals and wild animals; and

WHEREAS: the River Road Corridor has no overall, coordinated interpretive and sign program to inform tourists about important historical events and direct them to available resources; and

WHEREAS: the River Road is not presently viewed as a unit or as a marketable corridor. Yet, according to the State Office of Tourism, the area's various resources constitute some of the state's most significant tourist attractions but lacks an overall promotional strategy; and

WHEREAS: there is a large amount of apathy and indifference, particularly on the part of River Road property owners, as well as ignorance of various options open to these property owners; and

WHEREAS: there is a significant lack of accord among those parties who are interested in the River Road. Industry, hikers, bikers, environmentalists, historical preservationists, development-minded property owners, and conservationists each have their view of the correct way to best utilize this area. Each of the above groups is currently pushing their own agenda without regard for the others. If some measure of accord could be reached among these groups, it would significantly enhance the chances of positive action along the River Road Corridor.

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

SECTION 1: The Mississippi River Road Commission is hereby established.

SECTION 2: The commission shall be composed of at least 26 members, including a chairperson, appointed in the following fashion:

1. a delegation of no less than four state legislators from the River Road parishes and/or their designees;
2. the Secretary of the Department of Transportation and Development, or his or her designee;
3. the Lieutenant Governor, Commissioner of the Department of Culture, Recreation and Tourism, or his or her designee;
4. the Secretary of the Department of Environmental Quality, or his or her designee;
5. the President of the Louisiana Preservation Alliance, or his or her designee;
6. the Director of the Louisiana Preservation Alliance;
7. the Chairman of the Louisiana Preservation Alliance River Road Task Force;
8. the Director of the Louisiana Chemical Association, or his or her designee;
9. police jurors from at least four of the River Road parishes;
10. at least two representatives from parish-wide Tourist Development boards;
11. at least two representatives from parish-wide Economic Development groups;

12. at least one representative from recreational organizations;

13. the President of the River Road Historical Society, or his or her designee;

14. four members to be appointed at large;

15. the Pilot-president of the Mississippi River Parkway Commission.

SECTION 3: The commission will first conduct a comprehensive study of the River Road corridor, which will lead to the development of a River Road Enhancement Plan ("the plan"). The plan will present the overall picture and focus on specific achievable goals and objectives, including detailed strategies to achieve those objectives. The commission will then oversee the implementation of the plan within a specified time line.

SECTION 4: Non ex-officio members of the commission will be appointed by the governor and will serve for the duration of the project or until replaced. Upon completion of the plan, non ex-officio commission members will continue to serve three year terms on a staggered basis during which time they will provide for the plan's long term implementation. Staggering of terms will be accomplished by appointing one-third of the members for an initial one year term, a second third (1/3) of the members for an initial two year term and the final third (1/3) for an initial three year term. As each of these initial terms expires, the seat in question will be filled by a three year appointee.

SECTION 5: 1. The commission will recommend approval or disapproval at each stage of the phased study and will make recommendations concerning approval of the final report once it is prepared. Finally, the commission will oversee the long-term implementation of the report.

2. The project director and his support staff will be domiciled in the offices of the Louisiana Department of Transportation and Development in Baton Rouge. He may elect to be domiciled elsewhere depending upon the availability of space and the discretion of the commission.

SECTION 6: This executive order shall be effective upon signature.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 24th day of October, 1995.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9511#014

EXECUTIVE ORDER EWE 95 - 34

Bond Allocation for Solid Waste
in the City of DeQuincy

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order EWE 92-47 establishing (i) a method for the

allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1995 (the "1995 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1995 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the city of DeQuincy, state of Louisiana, has requested an allocation from the 1995 Ceiling to be used in connection with the financing of the acquisition, construction and installation of certain solid waste drum recycling facilities in DeQuincy, Louisiana (the "project") for Recycle, Inc. South, a Louisiana corporation; and

WHEREAS: the governor has determined that the project serves a crucial need and provides a benefit to the State of Louisiana, and the city of DeQuincy; and

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

NOW, THEREFORE, BE IT ORDERED BY EDWIN W. EDWARDS, Governor of the State of Louisiana, as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1995 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$4,500,000	City of DeQuincy, State of Louisiana	Recycle, Inc. South

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

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through December 31, 1995, provided that such bonds are delivered to the initial purchasers thereof on or about December 31, 1995.

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

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

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

SECTION 7: This executive order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 31th day of October, 1995.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9511#015

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Real Estate Commission

Checks Returned for Insufficient Funds (LAC 46:LXVII.705)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Louisiana Real Estate Commission has adopted emergency revisions to the rules and regulations affecting fees. The purpose of this declaration of emergency is to establish a procedure in which to process checks which are returned to the commission by financial institutions for insufficient funds. The effective date of this emergency rule is October 20, 1995, for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

TITLE 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Chapter 7. Fees

§705. Returned Checks Due to Insufficient Funds

A. Payment of any fee with a check which is returned by a financial institution due to insufficient funds wherein the reason for not paying the check is not a fault of the financial institution shall be grounds for cancellation of the transaction for which the fee was submitted and/or the suspension or revocation of a license, registration or certificate.

B. Persons issuing checks to the commission which are returned by financial institutions for insufficient funds will be notified of the return of the check by certified mail to the address registered by that person with the commission. Within 10 days from the mailing of the notification, the person issuing the check will remit a certified check, cashier's check or money order payable to the Louisiana Real Estate Commission in the amount of the returned check plus a \$25 processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:397 (October 1977), amended LR 9:315 (May 1983), LR 10:874 (November 1984), LR 11:6 (January 1985), amended by the Department of Economic Development, Real Estate Commission, LR 21:

J.C. Willie
Executive Director

9511#016

DECLARATION OF EMERGENCY

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

**Chemical Accident Prevention
(LAC 33:III.Chapter 59)(AQ126E)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary because the current rule LAC 33:III.Chapter 59 provides only for the registration of facilities with regulated substances over a threshold quantity. In the wake of recent events, it is apparent that a problem with accidents and accidental releases involving toxic, flammable or explosive substances needs immediate attention. Without these rules, the people and environment of the state of Louisiana could be exposed to imminent peril from this problem. Failure to adopt these rules through the emergency procedure will delay the implementation of procedures required to provide for the prevention of accidents and the minimization of the off-site consequences of such accidents.

This emergency rule is effective November 8, 1995, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning AQ126E, you may contact DEQ's Investigations and Regulation Development Division at (504) 765-0399.

The full text of these rules may be obtained from the Department of Environmental Quality, Investigations and Regulation Development Division, 7290 Bluebonnet Boulevard, Baton Rouge, LA or from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, (504) 342-5015. Please refer to document 9511#083 (AQ126E) when inquiring about this emergency rule.

Adopted this 8th day of November, 1995.

William A. Kurcharski
Secretary

9511#083

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Office of Uniform Payroll**

Payroll Deductions (LAC 4:III.Chapter 1)

The Office of the Governor, Division of Administration, Office of State Uniform Payroll has amended the following rule governing payroll deductions in accordance with R.S. 49:953(B). The purpose of the emergency rule is to facilitate timely implementation of the amendment to the rule which will be in effect through administrative procedure in January, 1996. These changes provide for a broader review and a more systematic evaluation of the products continued through annual application and applicant requests.

The effective date of this emergency rule is November 20, 1995, and it shall remain in effect for 120 days or until the final rule takes effect though the normal promulgation process, whichever occurs first.

The full text of this emergency rule may be obtained from the Office of State Uniform Payroll and the Office of the State Register, 1051 North Third Street, Baton Rouge, LA. Please refer to document 9511#089 when inquiring about these amendments.

Whit J. Kling
Deputy Undersecretary

9511#089

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of Public Health**

**Community Based and Rural Health Services
(LAC 48:I.15101 and LAC 48:V.13301, 13303)**

(Editor's Note: The rule text indicated below, originally promulgated in the January 1992 Louisiana Register, page 54, and amended in the February 1992 Louisiana Register, pages 181-182, was originally published as LAC 48:I.Subpart 9.Chapter 151. This text is being amended and repromulgated as an emergency rule under LAC 48:V.Subpart 49.Chapter 133.)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), the Office of Public Health does hereby adopt an emergency rule establishing two distinctly separate processes for the criteria, application, consideration, selection, and awarding of a grant for an urban community-based health care program and a rural health care program. The two aforementioned distinct processes were mandated by Act 363 of the 1995 Louisiana Legislative Session. Without availability of funds for these programs, there will be imminent peril to the health and welfare of the citizens of the state, specifically the lack of essential

emergency health services. As mandated by Act 363 of 1995, the emergency rule also establishes separate periodic review and reporting requirements.

This emergency rule shall be effective November 10, 1995 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 48

PUBLIC HEALTH - GENERAL

Part I. General Administration

Subpart 9. Primary Health Services

Chapter 151. Grants

§15101. Funding and Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2194-2198.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 18:54 (January 1992), repealed by the Office of Public Health, LR 22:

§15103. Funding and Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2194-2198.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 18:182 (February 1992), repealed by the Office of Public Health, LR 22:

Part V. Preventative Health Services

Subpart 49. Community Based and Rural Health Services

Chapter 133. Funding Eligibility (formerly Chapter 151 of Part I)

§13301. Rural Health Program (formerly §15101)

A. Contingent upon available funding, the Health Resources Management Section may establish one or more application cycles in any state fiscal year. At the beginning of any application cycle, eligible entities will be notified that applications are being accepted for grant projects.

B. Criteria for Applicants

1. Applicants for primary care clinic grants, demonstration grants, state matching funds for federal grants, and physician salary subsidy must:

a. be from rural areas as defined by the Department of Health and Hospitals, must be in a federally designated rural Health Professional Shortage Area or Medically Underserved Area of highest need;

b. be a local governmental entity or a non-profit (501)(c)(3) organization domiciled in Louisiana;

c. serve low-income and indigent persons; and

d. have a sliding scale for payment of services.

2. Applicants for emergency health services grants must:

a. be small rural hospitals, defined as public and private acute care hospitals licensed for 60 beds or less which have a service municipality with a population of 20,000 people or less;

b. be in a federally designated rural Health Professional Shortage Area or Medically Underserved Area of highest need; and

c. serve low-income and indigent persons.

C. The HRM Section will provide forms and/or guidelines

for application to apply for program funds. The application shall be received by the deadline date and signed by the Authorized Representative and submitted to the HRM Section.

D. The HRM Section shall conduct a review of the application for eligibility, completeness and programmatic priority.

E. All applications and/or requests for funding will be referred to the Objective Review Committee for award recommendations. The committee will consider the project and may confer with outside parties as necessary to obtain information on the financial feasibility, and readiness to proceed and make written recommendations to the Health Resources Management Section.

F. Recommendations will be forwarded to the assistant secretary, OPH for approval. The assistant secretary will act on the application after a time period of proper consideration, but no later than 45 days after the application has been received by the assistant secretary.

G. The HRM Section will notify the applicant of the approval or disapproval of its application within 10 working days of the assistant secretary's action. Written notification of the approval will be accompanied by an agreement to be signed by an authorized representative of the applicant and returned by certified mail.

H. All communications regarding an eligible entity's application shall be directed to the HRM Section.

I. Grant Type Categories:

1. Emergency Health Services

a. Small rural hospitals, defined herein, can apply for grants up to \$75,000 to strengthen their capability to provide high quality emergency health services to indigent and low income persons in rural areas.

b. A letter of intent must be submitted and shall reflect how the funds requested will be utilized.

c. Completed applications will be accepted until December 1, 1995.

2. Primary Care Clinic Grants

a. A request for an application kit to establish or enhance a primary care clinic in a rural area may be obtained from the Health Resources Management Section.

b. The proposal must include a needs assessment, a management plan, a detailed budget and budget justification, and other information as defined in the application kit.

c. The proposal including any appendices, may not exceed 50 typed, double-spaced, letter size pages.

d. Grant requests may not exceed \$150,000.

e. Completed application kits will be accepted until March 1, 1996.

3. Demonstration Grants

a. Applicants must be located in a rural medically underserved area and may apply for a grant to fund a project designed to innovatively, efficiently, and effectively develop and provide out-patient primary care services.

b. Demonstration projects can include, but are not limited to the establishment or acquisition of mobile health clinics, healthy communities projects, school-based clinic projects or others that will then secure other local or federal funding.

c. The grantee will be required to provide a 25

percent match (cash and/or in-kind) from the community or participating organization.

d. The proposal must include a needs assessment, a management plan, a detailed budget and budget justification, and other information as defined in the application kit.

e. Application kits can be obtained from the Health Resources Management Section. Completed applications will be accepted until March 1, 1996.

4. Physician Salary Subsidy

a. Local health agencies or communities may apply for state matching funds for physician salary guarantees of \$100,000 annually in salary and benefits to assist in recruiting and/or retain full time primary care physicians in the rural areas.

b. Primary care shall include pediatrics, OB/GYN, internal medicine, family practice, or general practice.

c. Sub-speciality training is permitted provided the physician practices only primary care as specified.

d. A *Full Time Primary Care Physician* is defined as a physician who practices out-patient preventive and primary care medicine at least 32 hours per week in not less than four days.

e. Local health agencies or communities are eligible for more than one award.

f. Only one award per physician is allowable under this program.

g. Eligible physicians must be newly hired or recently employed, as specified above, within the last five years.

h. State salary subsidies will not exceed \$50,000, and the local community must demonstrate its ability to at least match the state amount.

i. The Health Resources Management Section will contract directly with the local health agencies or communities who, in turn, contract with the primary care physician in the rural area. As such, agencies/communities must submit with their request for assistance, a copy of a contract with a physician which shall address the \$100,000 guarantee.

j. The Department of Health and Hospitals will make no payments under this incentive until the physician's actual received income and benefits are reconciled against his/her contract.

k. Applications by a letter of intent will be received through March 1, 1996.

5. State Matching Funds For Federal Grants

a. Requests for one time funding only will be accepted for new projects to provide primary care out-patient services to indigent or low income persons as proposed in federal grant applications.

b. Eligible applicants must provide a copy of the federal announcement and completed federal application at the time of request for funding.

c. Applications will be accepted until March 1, 1996.

J. Eligibility. In order to be eligible to receive a grant through this program, in addition to meeting the criteria set forth in Subsection B, the following requirements must be met by an eligible entity:

1. An eligible entity shall be a community-based organization that may include hospitals, primary care clinics,

or other local agencies that provides out-patient primary care in a rural area.

2. An eligible entity shall have a governing board whose membership is generally representative of the health care underserved area served.

3. An eligible entity which is a primary care clinic shall sustain or provide a minimum level of primary care services through the services of a physician or midlevel practitioner as provided for by Louisiana medical practice law.

a. Services may additionally include, but not be limited to, medical support, diagnostic and treatment services, pharmacy, laboratory, radiology, preventive health services, emergency medical services, mental health, patient follow-up, and/or dental and dental support services.

b. Such services shall be provided in coordination with primary medical care services.

4. An eligible entity shall have policies and procedures which assure that no person will be denied services because of inability to pay.

5. An eligible entity shall comply with all applicable federal, state, and local laws and regulations.

6. An eligible entity shall ensure the grant funds are not utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service:

a. under:

i. any state compensation program;

ii. an insurance policy; or

iii. any federal state health benefits programs; OR

b. by an entity that provides health services on a prepaid basis.

7. Other requirements as determined by the department.

K. Review and Reporting Requirements

1. The successful applicant shall sign a Memorandum of Agreement for one time funding only for the term of one year.

2. The grantee shall then submit programmatic and expenditure reports on a periodic basis as agreed upon in the MOA.

3. An audit report shall be submitted after the end of the contract period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2195, as amended by Act 363 of 1995

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 22:

§13303. Urban Community-Based Health Program (formerly §15103)

A. Contingent upon available funding, the Health Resources Management Section may establish one or more application cycles in any state fiscal year. At the beginning of any application cycle eligible entities will be notified that applications are being accepted for grant projects.

B. Applications will only be accepted from entities in a federally designated urban Health Professional Shortage Area or Medically Underserved Area, must:

1. be in an area of highest need;

2. serve low income and indigent persons;

3. have a sliding scale for payment; and

4. be a local governmental entity or a non-profit (501)(c)(3) organization domiciled in Louisiana.

C. The HRM Section will provide forms and/or guidelines

for application to apply for program funds. The application shall be received by the deadline date and signed by the authorized representative and submitted to the HRM Section.

D. The HRM Section shall conduct a review of the application for eligibility, completeness and programmatic priority.

E. All applications and/or requests for funding will be referred to the Objective Review Committee for award recommendations. The committee will consider the project and may confer with outside parties as necessary to obtain information on the financial feasibility, and readiness to proceed and make written recommendations to the Health Resources Management Section.

F. Recommendations will be forwarded to the assistant secretary, OPH for approval. The assistant secretary will act on the application after a time period of proper consideration, but no later than 45 days after the application has been received by the assistant secretary.

G. The HRM Section will notify the applicant of the approval or disapproval of its application within ten working days of the assistant secretary's action. Written notification of the approval will be accompanied by an agreement to be signed by an authorized representative of the applicant and returned by certified mail.

H. All communications regarding an eligible entity's application shall be directed to the HRM Section.

I. Grant Type Categories:

1. Primary Care Clinic Grants

a. A request for an application kit to establish or enhance a primary care clinic in an urban area may be obtained from the Health Resources Management Section.

b. The proposal must include a needs assessment, a management plan, a detailed budget and budget justification and other information as defined the application kit.

c. The proposal including any appendices, may not exceed 50 typed, double-spaced, letter size pages. Grant requests may not exceed \$150,000.

d. Completed application kits will be accepted until March 1, 1996.

2. Demonstration Grants

a. Applicants must be located in an urban Health Professional Shortage Area or Medically Underserved Area and may apply for a grant to fund a project designed to innovatively, efficiently, and effectively develop and provide out patient primary care services.

b. Demonstration projects can include, but are not limited to the establishment or acquisition of mobile health clinics, healthy communities projects, school-based clinic projects or others that will then secure other local or federal funding.

c. The grantee will be required to provide a 25 percent match (cash and/or in-kind) from the community or participating organization.

d. Application kits can be obtained from the Health Resources Management Section.

e. Completed applications will be accepted until March 1, 1996.

3. Physician Salary Subsidy

a. Local health agencies or communities may apply for state matching funds for physician salary guarantees of

\$100,000 annually in salary and benefits to assist in recruiting and/or retain full time primary care physicians in the inner-city urban areas.

b. Primary care shall include pediatrics, OB/GYN, internal medicine, family practice, or general practice.

c. Sub-speciality training is permitted provided the physician practice only primary care as specified.

d. A *Full Time Primary Care Physician* is defined as a physician who practices out-patient preventive and primary care medicine at least 32 hours per week in not less than four days.

e. Local health agencies or communities are eligible for more than one award.

f. Only one award per physician is allowable under this program.

g. Eligible physicians must be newly hired or recently employed, as specified above, within the last five years.

h. State salary subsidies will not exceed \$50,000, and the local community must demonstrate its ability to at least match the state amount.

i. The Health Resources Management Section will contract directly with the local health agencies or communities, who in turn contract with the primary care physician in the urban area. As such, agencies/ communities must submit with their request for assistance, a copy of a contract with a physician which shall address the \$100,000 guarantee.

j. The Department of Health and Hospitals will make no payments under this incentive until the physician's actual received income and benefits are reconciled against his/her contract.

k. Applications by a letter of intent will be received through March 1, 1996.

4. State Matching Funds For Federal Grants

a. Request for one time funding only will be accepted for new projects to provide primary care out-patient services to indigent or low income persons as proposed in federal grant applications.

b. Eligible applicants must provide federal announcement and completed federal application at the time of request for funding.

c. Completed applications will be accepted in the first funding cycle until December 1, 1995 and in the second funding cycle until March 1, 1996.

J. Eligibility. In order to be eligible to receive a grant through this program, the following requirements must be met by an eligible entity:

1. An eligible entity shall be a community-based non-profit organization, hospital, primary care clinic, or organization that provides out patient primary care in an urban Health Professional Shortage Area.

2. An eligible entity shall have a governing board whose membership is generally representative of the health care underserved area served.

3. An eligible entity which is a primary care clinic shall sustain or provide a minimum level of primary care services through the services of a physician or midlevel practitioner as provided for by Louisiana medical practice law.

a. Services may additionally include, but not be

limited to, medical support, diagnostic and treatment services, pharmacy, laboratory, radiology, preventive health services, emergency medical services, mental health, patient follow-up, and/or dental and dental support services.

b. Such services shall be provided in coordination with primary medical care services.

4. Have policies and procedures which assure that no person will be denied services because of inability to pay.

5. An eligible entity shall comply with all applicable federal, state, and local laws and regulations.

6. An eligible entity shall ensure the requested funds will not be utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service:

a. under:

i. any state compensation program;

ii. an insurance policy; or

iii. any federal state health benefits programs; OR

b. by an entity that provides health services on a prepaid basis.

7. Other requirements as determined by the Department.

K. Review and Reporting Requirements

1. The successful applicant shall sign a Memorandum of Agreement for one time funding only for the term of one year.

2. The grantee shall then submit programmatic and expenditure reports on a periodic basis as agreed upon in the MOA.

3. An audit report shall be submitted after the end of the contract period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2195, as amended by Act 363 of 1995.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 22:

Rose V. Forrest
Secretary

9511#087

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of Public Health

Sanitary Code - Nutria Processing for Human
Consumption (Chapter X)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 et seq., the Department of Health and Hospitals, Office of Public Health hereby amends and enacts rules pertaining to the slaughter and processing of nutria (*Myocastor coypus*) for human consumption. This emergency rule shall have concurrence of

the Louisiana Department of Agriculture and Forestry and the Louisiana Department of Wildlife and Fisheries in accordance with Act No. 352 of the 1995 Regular Session.

The effective date of this emergency rule is November 20, 1995 and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first. Without adoption of this emergency rule, there will be imminent peril to the health of the citizens of this state.

The purpose of this emergency rule is to adopt regulations and to establish procedures to govern the slaughter and processing of nutria (*Myocastor coypus*) for human consumption. This proposal stems from a serious problem of extremely large and virtually uncontrollable populations of nutria animals that are posing a threat to the integrity of wetland areas of Louisiana. As a possible remedy to this problem it is proposed that nutria be harvested and the skeletal muscle meat be processed for human consumption within approved processing facilities that will assure the production of a safe, high quality and wholesome meat product as an alternative to traditional animal meat products.

The purpose and scope of this rule shall include the following:

1. duties and roles of the departments engaged in this cooperative endeavor;

2. establishment of an initial limited pilot program that will be manageable by all departments involved;

3. minimum eligibility criteria for persons interested in participating in the pilot program;

4. limiting of nutria animals slaughtered and processed to those trapped by trappers who hold a valid current license issued by the Louisiana Department of Wildlife and Fisheries;

5. to amend Sections 10:003, 10:008, 10:015, 10:017, 10:018, 10:019, 10:020, 10:025, 10:026, 10:027, 10:028, 10:031, 10:035, 10:038, 10:040 of Chapter X of the State Sanitary Code; to enact Sections 10:043, 10:044, 10:044-1, 10:045, 10:046, and 10:047 of Chapter X of the State Sanitary Code; to amend Sections 49:3.0403(12), 3.0403(13), 3.0403(14), and 3.0403(15) of the meat and meat products regulations;

6. establishing standards of identity for nutria meat and nutria meat products by amending the meat regulations found in the "Red Book" which contains the Louisiana food, drug, and cosmetic laws and regulations as amended through February, 1986. Later amendments to the laws are found in the Louisiana Revised Statutes and later amendments to the regulations are located in the *Louisiana Register*, until the next printing of the "Red Book."

The nutria slaughter and processing initiative is based upon a cooperative endeavor agreement between the Louisiana Department of Health and Hospitals (LDHH) and the Louisiana Department of Agriculture and Forestry (LDAF). This agreement became effective as of February 1, 1995. The agreement specifies the duties and roles of the agencies involved in the processing of nutria for human consumption.

As specified in the cooperative endeavor agreement, the LDHH will approve and issue permits to operate to those applicants found in compliance with the provisions of this rule and applicable provisions of the State Sanitary Code. Inspection services by LDHH will be limited to Sanitary Code compliance audit of new or existing slaughter house facilities and equipment. The LDAF will provide for inspection of nutria carcasses at a 100 percent inspection rate. Thus, each nutria animal processed for human consumption will be inspected for wholesomeness and suitability as human food. LDAF will review and approve the nutria processing operations of each facility for adherence to a Hazard Analysis Critical Control Point (HACCP) quality assurance plan as adopted by the LDAF. LDAF will routinely collect and analyze samples of nutria meat for presence of decomposition and harmful microbes as part of a HACCP quality assurance plan. LDAF will review and approve labels and labeling of nutria meat processed, packed and shipped from approved processing plants. The LDWF will target certain geographical areas of the state to determine which areas are most populated by nutria and would be best suited for establishing a nutria processing plant. The LDWF will establish annually the dates for the opening and closing of nutria trapping seasons.

Chapter X. Game Bird and Small Animal Slaughter and Processing

* * *

10:003

The inspection of slaughter houses, meat packing plants and sausage kitchens preparing cattle, sheep, swine, goats, equines, chickens and turkeys is vested in the State Department of Agriculture and Forestry under authority of the State Meat and Poultry Inspection Law, LSA - R.S. 40:2271 et seq. The only services the State Department of Health and Hospitals shall provide such establishments will be approval of their water supplies and waste disposal facilities and registration of meat products in accordance with the provisions of LSA - R.S. 40:627, and Chapters XII and XIII of this Code.

10:008

Permits shall be issued only to the person or persons responsible for the operations of the facility and shall not be transferrable.

10:015

These records shall be kept on file for one year by the owner or operator of the slaughter house and shall be available for the state health officer's inspection at any time during reasonable working hours.

10:017

Plans and specifications for new establishments shall be submitted to the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit for review and approval before construction.

10:018-1

Slaughter and processing plants shall be well lighted, naturally and/or artificially with at least 40 foot candles of light on all working surfaces.

10:018-2

Slaughter and processing plants shall be provided with

adequate ventilation or control equipment to minimize odors and vapors (including steam and noxious fumes) in areas where they may contaminate food; and locate and operate fans and other air-blowing equipment in a manner that minimizes the potential for contaminating food, food-packaging materials, and food-contact surfaces.

10:019

Drainage, sewage disposal, and plumbing systems shall comply with Chapters XIII and XIV of this Code. Floor drains shall be provided in the slaughter and packing rooms in accordance with Chapter XIV.

10:020

Potable water shall be available in all areas of the slaughter house for cleaning and sanitizing utensils and equipment, and for hand washing, as specified in Chapter XIV of the State Sanitary Code, referencing Chapter 12 of the Standard Plumbing Code, 1991 Edition with 1992 Louisiana amendments. A heating facility capable of producing hot water for these purposes shall be provided on the premises. Water samples to verify microbiological quality and potability shall be collected from each plant at least annually.

10:025

Toilet facilities shall be provided and installed in accordance with Chapter XIV of the State Sanitary Code, referencing Section 922 of the Standard Plumbing Code, 1991 Edition. Facilities shall be conveniently located and shall be accessible to employees at all times.

10:026

Hand washing lavatories shall be provided and installed in accordance with Chapter XIV of the State Sanitary Code, referencing Section 922 of the Standard Plumbing Code, 1991 Edition. Hand washing lavatories shall be accessible to employees at all times. Hand washing lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing and sanitizing of equipment and utensils shall not be used for hand washing. Each hand washing lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. An ample supply of hand cleansing soap or detergent shall be available at each lavatory. An ample supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each hand washing lavatory. The use of common towels is prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the hand washing facilities.

10:027

A three-compartment sink constructed of smooth, impervious noncorrosive material such as stainless steel or high density food grade polymer plastic shall be provided in slaughter rooms, packing rooms or other preparation rooms for washing, rinsing and sanitizing utensils and equipment. Sinks constructed of galvanized steel are not acceptable. Sinks shall be adequate in size and number and shall be large enough to accommodate the largest utensil or movable piece of equipment.

Each sink compartment is to be designated and used for a specific purpose as shown in Table 10.1 b

Table 10.1 Three Compartment Sink Usage

Sink Compartment #1	Sink Compartment #2	Sink Compartment #3
Detergent Wash to remove soil and food residues.	Rinse with potable water to remove detergent solution.	Immersion in hot water or chemical sanitizing solution to destroy harmful microbes not removed by washing process (See 10:028-2).

Minimum Concentration mg/L	Minimum Temperature pH of 10 or less °F (°C)	Minimum Temperature pH of 8 or less °F (°C)
25	120 (49)	120 (49)
50	100 (38)	75 (24)
100	55 (13)	55 (13)

Each sink compartment shall be provided with hot and cold running water delivered under pressure through a mixer faucet or mixing valve. Sinks are to be properly installed and shall be trapped and vented. Sinks designated for washing or thawing of food or food ingredients shall be designated for that purpose only and shall not be used for cleaning equipment or utensils.

10:028-1

Equipment and utensils used for preparing, processing and otherwise handling any meat, meat product or poultry shall be of such material and construction so as to enable ready and thorough cleaning and sanitizing such as will insure strict cleanliness in the preparation and handling of all food products. Trucks and receptacles used for inedible products shall bear some conspicuous and distinct mark and shall not be used for handling edible products.

10:028-2

Equipment and utensils used for preparing, processing and otherwise handling any meat, meat product or poultry shall be cleaned as often as necessary to avoid contamination of food, food ingredients and food-packaging materials.

Food-contact surfaces of equipment and utensils used in the processing and packaging of foods subject to contamination by harmful microbes shall be washed with a suitable detergent solution, rinsed with potable water and then sanitized in a manner specified as follows:

A. Hot Water Immersion. Cleaned equipment and utensils shall be immersed in fresh hot water of 170° F (77° C) or above.

B. Chemical Sanitizers. A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at exposure times specified in 10:028-2 (C) shall be listed in 21 CFR 178.1010, shall be used in accordance with the EPA-approved manufacturer's label use instructions, and shall be used as follows:

1. A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

2. An iodine solution shall have a:
 - a. minimum temperature of 75° F (24° C),
 - b. pH of 5.0 or less, unless the manufacturer's use directions included in the labeling specify a higher pH limit of effectiveness, and
 - c. concentration between 12.5 mg/L and 25 mg/L.
3. A quaternary ammonium compound solution shall:
 - a. have a minimum temperature of 75° F (24° C),
 - b. have an effective concentration of not more than 200 mg/L as specified in 21 CFR 178.1010,
 - c. be used only in water with 500 mg/L hardness or less.
4. Other solutions of the chemicals specified in 10:028-2 (B)(1-3) of this section may be used if demonstrated to the state health officer to achieve sanitization and approved by the state health officer; or
5. Other chemical sanitizers may be used if they are applied in accordance with the manufacturer's use directions included in the labeling.

C. Sanitization Exposure Times. Utensils and food-contact surfaces shall be exposed to hot water and chemical compounds for a period of time as specified below:

METHOD	MINIMUM EXPOSURE TIME
Hot Water Immersion	30 seconds
Chlorine solutions	10 seconds
Other Chemical Sanitizing Solutions	30 seconds

10:031

Rooms, compartments, places, equipment and utensils used for preparing, storing or otherwise handling any meat, meat products or poultry processed or packed, shall be kept free of

steam and vapor to allow for inspections and to insure clean operations. The walls and ceilings of coolers and rooms under refrigeration shall be kept free from moisture so that condensation does not accumulate on walls and ceilings. Fresh meat and poultry shall be stored at 41° F or below.

10:035

In addition, all vehicles used to transport meat, meat products or poultry shall be equipped with refrigeration units capable of maintaining 41°F or below for refrigerated products and 0°F or below for frozen products to insure their cleanliness.

10:038

Employee Health. The requirements of Chapter I, Section 1:008 (1-3) and Chapter 2, Sections 2:021-2:024 of this Code shall be met.

10:040

Offal shall be properly disposed of in a manner so as not to create nuisances or unsanitary conditions in or around the slaughter and processing plant that would provide a source of contamination. Offal shall be hauled away and properly disposed of daily pursuant to the requirements set forth in Chapters XI and XXVII of the State Sanitary Code.

* * *

Nutria Program

10:043

In order to protect the health and welfare of consumers and to properly manage the nutria inspection program, an initial pilot program will be established and will include the supervision of a limited number of nutria processing facilities. For the initial pilot program, permits to operate will be issued to a maximum of five qualified applicants. Application for permits to process nutria shall be made on a form provided by the Department of Health and Hospitals. However, no application to process nutria will be accepted after the maximum number of permits have been issued or after the closing of the nutria trapping season. The nutria processing pilot program will commence and cease on dates coinciding with the beginning and ending of the nutria trapping season as promulgated by the Wildlife and Fisheries Commission. Permits issued by LDHH will expire at midnight of the last official day of the nutria trapping season. Only nutria taken by licensed trappers will be considered eligible for processing and inspection under the cooperative inspection program. The number of nutria processing plants that will be approved and permitted for nutria processing in future years will be determined each year after the close of the nutria trapping season and after an evaluation of each year's production has been made.

10:044

Persons wanting to process nutria for human consumption must meet certain minimum qualifications in order to be considered for inclusion in the nutria processing pilot program.

10:044-1

Permitted facilities shall:

1. have access to an abundant supply of nutria animals for slaughtering and processing in order to keep each processing facility operating at an acceptable capacity in order to best utilize the personnel and resources of all departments;

2. utilize processing facilities that are designed and constructed to meet the minimum standards of Chapter X of the State Sanitary Code;

3. establish and adhere to a HACCP quality control plan approved by LDAF that will render safe nutria meat which is free of harmful microorganisms and of sound, wholesome quality;

4. receive and process only those nutria animals that have been taken by trappers who hold a valid license issued by the LDWF;

5. pre-inspect nutria carcasses upon receipt from licensed trappers to verify suitability for submission for inspection. Carcasses that are deemed unsuitable for processing for human consumption shall be clearly marked or otherwise identified so as not to be subject to inspection or otherwise commingled with nutria deemed suitable for human consumption. Nutria carcasses declared not fit for human consumption shall be rejected from inspection and shall be destroyed and disposed of in a manner approved by LDHH and LDAE and shall not be allowed to create a nuisance and/or a source of contamination.

10:045

Each package, container, carton, or case of nutria, nutria meat, or nutria meat products shall be labeled in accordance with Section 49:3.0601 of the meat and meat products regulations. Labels and labeling shall be reviewed and approved by the LDAF. All nutria taken, processed, packaged and distributed under this cooperative program shall be labeled and identified as "certified cajun nutria."

10:046

No nutria meat shall be sold in any butcher shop, meat market, grocery store, restaurant or to any wholesale grocer, dealer or distributors unless such nutria meat is clearly identified as having been processed and inspected in an approved processing facility. Nutria meat not clearly identified as having been processed and inspected in an approved processing facility shall be subject to seizure and destruction as provided for by LSA - R.S. 40:632 and 635.

10:047

The provisions herein constituting Chapter X of the State Sanitary Code shall apply to the nutria program, as appropriate.

* * *

Section 49:3.0403 of the meat and meat products regulations are hereby amended as follows:

49:3.0403 (12)

"Nutria" or "nutria meat" is the edible part of the muscle of nutria which is skeletal and shall not include muscle that is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without accompanying and overlying fat, and the portions of bone, skin sinew, nerve and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing.

49:3.0403 (13)

"Nutria meat product" is any article of food, or any article intended or capable of being used as food which is derived or prepared, in whole or in substantial definite part, from the skeletal muscle of nutria.

49:3.0403 (14)

"Nutria Sausage" is the coarse or finely comminuted meat

food product prepared from nutria meat in combination with one or more kinds of meat or meat and meat by-products, containing various amounts of water and usually seasoned with condimental substances, and frequently cured. Nutria sausage shall contain greater than 50 percent nutria meat in combination with other meat or meat and meat by-products. To facilitate chopping or mixing or to dissolve the usual curing ingredients, water or ice may be used in the preparation of nutria sausage which is not cooked in an amount not to exceed 3 percent of the total ingredients of the formula.

49:3.0403 (15)

"Uncooked, Smoked Nutria Sausage" is Nutria Sausage that is smoked with hardwood or other approved nonresinous materials. Smoked nutria sausage shall contain greater than 50 percent nutria meat in combination with beef, pork or poultry meat or beef, pork or poultry meat by-products. To facilitate chopping or mixing, water, or ice may be used in an amount not to exceed 3 percent of the total ingredients used. Nutria, beef, pork and poultry meat ingredients as well as all other ingredients shall be designated in the ingredient statement on the label of such sausage as required by 49:2.0220 of the food regulations.

"Cooked nutria sausage" is nutria frankfurter, nutria frank, nutria furter, nutria hot-dog, nutria wiener and similar products are comminuted, semisolid sausages prepared from raw skeletal nutria muscle meat alone or in combination with beef meat, pork meat, or poultry meat and seasoned and cured, using one or more of the curing agents in accordance with 9 C.F.R. 318.7(c). They may or may not be smoked. The finished products shall contain not less than 50 percent nutria meat and not more than 30 percent fat. These sausage products may contain only phosphates approved under 9 C.F.R. 318. Such products may contain raw or cooked poultry meat not in excess of 15 percent of the total ingredients, excluding water, in the sausage, and mechanically separated (Species) used in accordance with 9 C.F.R. 319.6. Nutria, beef, pork and poultry meat ingredients as well as all other ingredients shall be designated in the ingredient statement on the label of such sausage as required by 49:2.0220 of the food regulations.

* * *

Rose V. Forrest
Secretary

9511#073

DECLARATION OF EMERGENCY

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

Adult Denture Program

The Department of Health and Hospitals, Office of the Secretary has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153

and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing previously reimbursed providers for partial casts and for a new denture once every five years. The bureau revised the service coverage for adult dentures effective for dates of service November 9, 1995 and after to require a minimum of seven years before a new denture may be reimbursed for adult Medicaid patients and to eliminate coverage of partial casts.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that these actions will reduce expenditures in the Medicaid Program for adult denture services by approximately \$980,460 for state fiscal 1995-1996. An emergency rule regarding program reduction was first adopted effective July 13, 1995 and published in the *Louisiana Register* (Volume 21, No. 7) and a notice of intent was also published (*Louisiana Register*, Volume 21, No. 9).

Emergency Rule

Effective for dates of service of November 9, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services will require in the Adult Dental Program:

1) New dentures are only allowable seven years after the original dentures are provided. A combination of two denture relines or one complete denture and one reline per arch may be allowed in a seven-year period, as prior authorized by the Bureau of Health Services Financing or its designee;

2) For relines, at least one year shall have elapsed since the dentures were constructed or last relined. In addition, the Adult Dental Program shall no longer reimburse for cast partial dentures (Procedure Codes 05213 and 05214). Any of the above services previously authorized but not completed prior to July 13, 1995 shall not be reimbursed.

A copy of this rule is available in the Medicaid parish offices for review by interested parties.

Rose V. Forrest
Secretary

9511#074

DECLARATION OF EMERGENCY

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

Disproportionate Share - Hospital Payment Methodology (FY 1995-96)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq., and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Medicaid Program previously reimbursed private hospitals and publicly-owned or operated hospitals serving a disproportionate share of low income patients via 12 pools with payments based on Medicaid days. This payment methodology was implemented effective February 1, 1994 to comply with the Health Care Financing Administration's policy on Section 1923 (Adjustment in Payments for Inpatient Hospital Services Furnished by Disproportionate Share Hospitals) of the Social Security Act (42 U.S.C. Section 1396r-4). In addition, disproportionate share payments for indigent care based on free care days were made by establishment of a payment methodology which reimbursed providers for indigent care days based on a Medicaid per diem equivalent amount.

The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) amended Section 1923 of the Social Security Act by establishing individual hospital disproportionate share payment limits. To comply with these new provisions, the bureau's disproportionate share payment methodology which included provisions governing the qualifications applicable to private and public hospitals and payment methodology applicable to publicly-owned or operated hospitals was amended effective on July 1, 1994 and was published in the *Louisiana Register* Volume 20, Number 7. In addition, the qualification applicable to both public and private hospitals was included in the July 1, 1994 emergency rule which requires a disproportionate share hospital to have a Medicaid inpatient utilization rate of at least 1 percent is incorporated in the following emergency rule. These regulations continued to govern DSH payments through June 30, 1995.

In order to comply with the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) requirements for the upcoming federal fiscal year and in order to avoid a budget deficit in the

medical assistance programs, the bureau has determined that the following changes are necessary in the payment methodologies for public state-operated hospitals, private hospitals and public nonstate hospitals. The following emergency rule replaces all prior regulations governing disproportionate share payment methodologies (excluding disproportionate share qualification criteria).

It is estimated that implementation of this rule will reduce expenditures for disproportionate share payments in the Medicaid Program by approximately \$136,000,000 for state fiscal year 1995-1996.

Emergency Rule

Effective for dates of service on or after October 29, 1995 the Department of Health and Hospitals, Bureau of Health Services Financing replaces prior regulations governing disproportionate share hospital payment methodologies (excluding disproportionate share qualification criteria) and establishes the following regulations to govern the disproportionate share hospital payment methodologies for public state-operated, private hospitals and public nonstate hospitals.

Disproportionate Share Hospital Payments Public State-Operated Hospitals

DSH payments to individual public state-owned or operated hospitals as defined below will be equal to 100 percent of the hospital's net uncompensated costs as defined below subject to the adjustment provision described below.

Definitions:

Public State Operated Hospital—a hospital that is owned or operated by the State of Louisiana.

(Net) Uncompensated Cost—costs incurred during the state fiscal year of furnishing inpatient and outpatient hospital services net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payor payments and all other inpatient and outpatient payments received from uninsured and Medicaid patients.

Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

Private Hospitals and Public Nonstate Hospitals

A. Reimbursement will no longer be provided for indigent care in private hospitals or public nonstate hospitals qualifying for disproportionate share payments.

B. The following pools, public local government acute care hospital and public local government distinct part psychiatric units/free-standing psychiatric hospitals are added to the six pools. These hospitals will no longer receive a DSH payment equal to each hospital's net uncompensated costs. Disproportionate share reimbursement for these qualifying hospitals will be based on methodology described below.

C. Each private or public nonstate hospital qualifying for participation in the eight disproportionate share pools with payments based on Medicaid days will receive payments which are the lesser of 100 percent of its net uncompensated costs of providing services to Medicaid recipients and uninsured patients or their disproportionate share payment calculated by the bureau via the pool methodology.

D. Annualization of days for the purposes of the Medicaid

days pools is not permitted.

E. Qualification for and payment adjustment for DSH shall be based on the hospital's year end cost report for the year ended during the period July 1 through June 30 of the previous year.

F. Reimbursement will be based on Medicaid days included (based on qualification) in the eight pools listed in Item I below.

G. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization, but for purposes of disproportionate share hospital payment adjustments, the distinct part psychiatric units shall be placed in the psychiatric pools while the acute medical/surgical unit(s) shall be included in the appropriate teaching or nonteaching pool. Hospitals must meet the criteria for the pool classification based on their fiscal year-end cost report as of June 30 of the previous year.

H. For purposes of the pools defined below, service district hospitals/beds located outside the service district will be classified by the bureau as privately-owned and operated and shall be placed in the appropriate private hospital/unit pools.

I. The eight pools are as follows:

1. *Private Rural Acute Hospitals*—privately-owned acute care general rehabilitation and long term care hospitals (exclusive of distinct part psychiatric units) which are designated as a rural hospital under criteria specified below. This includes public local government acute hospital days attributable to beds/units located in an area which is designated as rural and is located outside the service district area.

2. *Private Rural Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which are located in a rural area under criteria specified below. This includes public local governmental psychiatric hospital days attributable to beds/units located in an area which is designated as rural and is located outside the service district area.

3. *Private Teaching Hospitals*—privately-owned acute care general rehabilitation, and long term care hospitals (exclusive of distinct part psychiatric units) which are recognized as approved teaching hospitals under criteria specified below. This includes public local government acute hospital days attributable to beds/units located in an area which is designated as urban and is located outside the service district area.

4. *Private Urban Nonteaching Hospitals*—privately-owned acute care general hospitals and long term care hospitals (exclusive of distinct part psychiatric units) which are designated as urban hospitals and not recognized as approved teaching hospitals, under criteria specified below.

5. *Private Teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—privately-owned distinct part psychiatric units/freestanding psychiatric hospitals which meet the criteria for recognition as approved teaching hospitals, under criteria specified below.

6. *Private Urban Nonteaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—privately-owned distinct part psychiatric units/freestanding psychiatric

hospitals which are located in an urban area and do not meet the criteria for recognition as approved teaching hospitals, under criteria specified below. This includes public local government psychiatric hospital days attributable to beds/units located in an area which is designated as urban and is located outside the service district area.

7. *Public Local Government Acute Hospitals*—local government-owned acute care general rehabilitation and long term care hospitals (exclusive of distinct part psychiatric units). Only days attributable to beds/units located within the service district area qualify for inclusion to the pool.

8. *Public Local Government Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—local government-owned distinct part psychiatric units/freestanding psychiatric hospitals. Only days attributable to beds/units located within the service district area qualify for inclusion in this pool.

J. The definitions for hospital classifications applicable to the above Medicaid days pools are given below.

1. *Teaching Hospital*—A teaching hospital is defined as a licensed acute care hospital in compliance with the Medicare regulations regarding such facilities, or a specialty hospital with a graduate medical education program that is excluded from the prospective payment system as defined by Medicare. A specialty teaching hospital must have a written affiliation agreement with an accredited medical school to provide post graduate medical resident training in the hospital for the specialty services provided in the specialty hospital. The affiliation agreement must contain an outline of its program in regard to staffing, residents at the facility, etc. A distinct part or carve-out unit of a hospital shall not be considered a teaching hospital separate from the hospital as a whole. Teaching specialty hospitals that are not recognized by Medicare as an approved teaching hospital must furnish to the department, copies of graduate medical education program assignment schedules and rotation schedules which document actual on-going resident training throughout the applicable cost reporting period and shall only be included in the teaching hospital pool for those days that graduate medical education is being provided.

2. *Nonteaching Hospital*—an acute care general hospital or specialty hospital not recognized as an approved teaching hospital by the department or under Medicare principles for the fiscal year-end cost report as of June 30 of the previous year.

3. *Urban Hospital*—a hospital located in a Metropolitan Statistical Area as defined per the 1990 census. This excludes any reclassification under Medicare.

4. *Rural Hospital*—a hospital that is not located in a Metropolitan Statistical Area as defined per the 1990 census. This excludes any reclassification for Medicare.

5. *Distinct Part Psychiatric Unit/Free-standing Psychiatric Hospital*—distinct part psychiatric units of acute care general hospitals or psychiatric units in long term care and rehabilitation hospitals meeting the Medicare criteria for PPS exempt units and enrolled under a separate Medicaid provider number and freestanding psychiatric hospitals enrolled as such.

K. Disproportionate share payments for each pool shall be calculated based on the product of the ratio determined by dividing each qualifying hospital's total Medicaid inpatient days for the applicable cost report by the total Medicaid

inpatient days provided by all such hospitals in the state qualifying as disproportionate share hospitals in their respective pools, and then multiplying by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days. Pool amounts shall be allocated based on the consideration of the volume of days in each pool or the average cost per day for hospitals in each pool.

L. If at audit or final settlement of the cost reports on which the pools are based, the above qualifying criteria are not met, or the number of Medicaid inpatient days are reduced from those originally reported, appropriate action shall be taken to recover any over payments resulting from the use of erroneous data. No additional payments shall be made if an increase in days is determined after audit. Recoupment of overpayment from reductions in pool days originally reported shall be redistributed to the hospital that has the largest number of inpatient days attributable to individuals entitled to benefits under the State Plan of any hospitals in the state for the year in which the recoupment is applicable.

M. Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments.

General Provisions

Disapproval of any one of these payment methodology(ies) by the Health Care Financing Administration does not invalidate one remaining methodology(ies).

Disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state allotment for each federal fiscal year and the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospitals' disproportionate share payments to remain within the federal disproportionate share allotment or the state disproportionate share appropriated amount necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment each year, the department shall calculate a pro rata decrease for each public (state) hospital based on the ratio determined by dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public hospitals during the state fiscal year and then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment. A pro rata decrease for nonstate hospitals will be calculated based on the ratio determined by dividing the hospitals Medicaid days by the days for all qualifying nonstate hospitals and then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

Interested persons may submit comments to the following address: Thomas D. Collins, 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.

Rose V. Forrest
Secretary

9511#021

DECLARATION OF EMERGENCY

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

Emergency Ambulance Services

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

Medicaid payment for emergency ambulances services has been made in accordance with Medicare's allowance for an "all-inclusive" rate so that the Medicaid payment for the transport, supplies, oxygen and all other ancillaries were included in the payment for a procedure. Initially effective April 1, 1995 the HCFA terminated such "all inclusive" billing and required emergency ambulance providers to bill ancillaries separately. Therefore to remain congruent with Medicare payment for emergency ambulance services as required by state law and to protect the health and welfare of Medicaid recipients, has adopted the following rule to reimburse emergency ambulance services in accordance with the Medicare rates. In addition, the following emergency rule specifies the emergency ambulance services which will be reimbursed by Medicaid. It is estimated that this action will increase expenditures in the Medicaid program by approximately \$1,011,324 for first year of implementation, or approximately \$252,831 for the last three months of SFY 1995.

Emergency rulemaking was implemented on April 1, 1995 (*Louisiana Register*, Volume 21, Number 4) and August 2, 1995 (*Louisiana Register*, Volume 21, Number 8). The following emergency rule continues these provisions in force until adoption of the rule under the Administrative Procedure Act. A notice of intent was also published in the *Louisiana Register* (Volume 21, Number.10).

Emergency Rule

Effective with dates of service November 26, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, reimburses medically-necessary emergency ambulance services in accordance with Medicare's established rates for an emergency ambulance transport and mileage, basic and advanced life support services, oxygen, intravenous fluids, and disposable supplies administered during the emergency ambulance transport minus the amount which is to be paid by any liable third-party coverage.

All Advanced Life Support (ALS) and Basic Life Support (BLS) ambulance services must be certified by the Department of Health and Hospitals, Bureau of Health Services Financing in order to receive Medicaid reimbursement and all ALS or BLS services must be provided

in accordance with the state law and regulations governing the administration of these services. All (ALS) and (BLS) ambulance services must comply with the state law and regulations governing the personnel certifications of the emergency medical technicians administered by the Department of Health and Hospital's Bureau of Emergency Medical Services. The department will ensure through post pay review that all services are medically appropriate for the level of care billed and have been provided in accordance with the ALS or BLS certification level of the ambulance service.

A copy of this rule is available at Parish Medicaid Offices for review by interested parties.

Rose V. Forrest
Secretary

9511#085

DECLARATION OF EMERGENCY

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

Federally Qualified Health Centers

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but no limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule whichever occurs first.

The Bureau of Health Services Financing reimburses federally qualified health center visits and physician visits under the Medicaid Program. Physician visits are limited to 12 medically necessary visits per year for each eligible recipient who is 21 years of age or older. Recipients under the age of 21 are not subjected to program limitations, other than the limitation of medical necessity. The following services have been counted as one of the 12 allowable visits per calendar year for recipients 21 years of age or older:

- A. physician office visit including visits to optometrists;
- B. physician home visit;
- C. consultation from another physician when such consultation is essential for the treatment of the recipient's illness;
- D. physician visit in an outpatient hospital setting including emergency room visits due to accidental injury or sudden and serious illness;

E. physician visit in a nursing home: the physician will sign the recipient's chart at the facility on the day of the visit; and

F. family planning services for the following:

1. initial visit to include a physical examination with pelvic, pap smear and counseling;
2. pap smear; and
3. insertion and/or removal of IUD.

Federally qualified health center visits have not been included in the 12 annual physician visits allowable under the Medicaid Program for recipients 21 or older. The department has now determined it is necessary to include federally qualified health center visits under the 12 allowable visits for Medicaid recipients 21 or older. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Federally Qualified Health Clinic Program by approximately \$125,000 for state fiscal year 1995-1996. An emergency rule was first adopted effective July 13, 1995 and published in the *Louisiana Register*, (Volume 21, No. 7) and a notice of intent was also published in the *Louisiana Register*, (Volume 21, No. 9).

Emergency Rule

Effective for dates of service November 9, 1995 and after, each federally qualified health center visit, i.e., encounter, is included as one the 12 outpatient physician visits allowable per year for Medicaid eligibles who are 21 years of age or older.

Federally qualified health center visits for prenatal and post partem care are excluded from the maximum allowable number of physician visits per year and are reimbursed on an interim basis in accordance with the physician procedure reimbursement schedule contained in the State Plan and are cost settled. A copy of this rule is available in the parish Medicaid office for review by interested parties.

Rose V. Forrest
Secretary

9511#076

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but no limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This rule is in

accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be effective beginning July 13, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The department adopted comprehensive regulations governing the provision of all inpatient psychiatric services under the Medicaid Program which included pre-certification and length of stay requirements as well as patient criteria governing the admission, extension and discharge of recipients in need of these services on June 20, 1995 (*Louisiana Register* Volume 21, Number 6). The department has now determined that it is also necessary to limit inpatient psychiatric services to a maximum of 30 days per year for Medicaid recipients under 21 years of age and over 65 years of age. This limitation applies to inpatient psychiatric services provided other than in a distinct part psychiatric unit of an acute care hospital. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for inpatient psychiatric services by approximately \$17,841,595. An emergency rule was first adopted effective July 13, 1995 and published in the *Louisiana Register* (Volume 21, No. 7) and a notice of intent was also published in the *Louisiana Register* (Volume 21, No. 9).

Emergency Rule

Effective for dates of service November 9, 1995 and after the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing limits inpatient psychiatric services to a maximum of 30 days per calendar year per recipient. This limitation applies to Medicaid recipients who are under 21 years of age and over 65 years of age and to inpatient psychiatric services provided other than in a distinct part psychiatric unit. Persons under 21 years of age may receive additional days if medically necessary. The fiscal intermediary shall continue to review each inpatient psychiatric admission to determine the recipient's eligibility for these services in accordance with established regulations for inpatient psychiatric services.

A copy of this emergency rule is available at parish Medicaid offices for review by interested persons.

Rose V. Forrest
Secretary

951i#080

DECLARATION OF EMERGENCY

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

Laboratory and X-Ray Services

The Department of Health and Hospitals, Office of the Secretary has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq., and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the

Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act R.S. 49:950 et seq., and shall be in effect beginning November 3, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The Department of Health and Hospitals provides reimbursement for lab and x-ray services. Payment for lab services is made on the basis of the lower of: billed charges, state maximum amount, or Medicare fee schedule amount. Payment for x-ray services is made on a flat fee basis. The bureau has determined it is necessary to reduce by 15 percent the reimbursement for lab and x-ray services except for those services provided in an outpatient hospital setting. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the laboratory and X-ray services by approximately \$8,250,000 for state fiscal year 1995-1996. An emergency rule was first adopted effective July 7, 1995 and published in the *Louisiana Register*, (Volume 21, Number 7) and a notice of intent was also published (*Louisiana Register*, Volume 21, Number 9).

Emergency Rule

Effective for dates of service November 3, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing, reduces reimbursement by 15 percent lab and x-ray services except for those services provided in an outpatient hospital setting.

Rose V. Forrest
Secretary

9511#072

DECLARATION OF EMERGENCY

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

Leave of Absence—Nursing Facility Residents

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but no limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the provisions of the Administrative

Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The Bureau of Health Services Financing provides coverage under the Medical Assistance Program for nursing facility services. Nursing facility services are mandatory under Title XIX of the Social Security Act; however, states may choose the methodology for providing reimbursement for nursing facility services. The number of reimbursable leave of absence days are limited to 10 days per hospitalization for treatment of an acute condition, and to nine days per calendar year for other leave days. The department has now determined that it is necessary to reduce payments to nursing facilities by limiting the number of reimbursable leave of absence days. The department has determined it is necessary to lower these reimbursable limits. Beds are reserved for up to five days per hospitalization for treatment of an acute condition and beds are reserved for up to four days per calendar year for other leave days.

Therefore, the following emergency rule reduces payments to nursing facilities by limiting the number of reimbursable leave of absence days. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures vendor payment for leave days by nursing facility residents by approximately \$10,000 for state fiscal year 1995-1996. An emergency rule was first adopted effective July 13, 1995 and published in the *Louisiana Register* (Volume 21, No. 7) and a notice of intent was also published in the *Louisiana Register* (Volume 21, No. 9).

Emergency Rule

Effective for dates of service beginning November 9, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reduces payments to nursing facilities by limiting the number of reimbursable leave of absence days as follows.

1. Beds are reserved for up to five days per hospitalization for treatment of an acute condition per calendar year.
2. Beds are reserved up to four days per calendar year for other leave days.

A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

9511#075

DECLARATION OF EMERGENCY

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

Mental Health Clinics

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance

Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses mental health clinics for each service performed for a recipient. The bureau revised the program effective July 13, 1995 to allow reimbursement for a maximum of one service per day per recipient. Additionally, effective July 13, 1995, reimbursement for the following services were discontinued: occupational therapy, recreational therapy, music therapy or art therapy. Billing codes for these services are X0081, X0082, X0083 and X0084 respectively. An emergency rule was first adopted effective July 13, 1995 and published in the *Louisiana Register* (Volume 21, No. 7) and a notice of intent was also published in the *Louisiana Register* (Volume 21, No. 9).

The following emergency rule re-adopts the above provisions. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for mental health clinics by approximately \$500,000 for state fiscal year 1995-1996.

Emergency Rule

Effective for dates of service November 9, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reimburses mental health clinics for only one procedure per day per recipient. Occupational therapy, recreational therapy, music therapy, and art therapy are not reimbursable services under the Medicaid Program.

A copy of this rule is available in the parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

9511#081

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Clinical Evaluation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General

Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law."

This action is necessary to avoid a budget deficit in the medical assistance program. It is anticipated that implementation of this emergency rule and other related emergency rules on the Mental Health Rehabilitation Program effective December 1, 1995 will save the state a combined total of approximately \$23,163,550. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The Office of Mental Health and the Office of the Secretary for the Department of Health and Hospitals adopted a rule defining Adults with Serious Mental Illness and Children with Emotional/Behavioral Disorders on September 20, 1994 (*Louisiana Register*, Volume 20, Number 9). The Office of the Secretary, Bureau of Health Services Financing adopted a rule for the Mental Health Rehabilitation Program which required recipients to meet the definition of serious mental illness as defined by the Office of Mental Health and to be prior authorized to receive services (*Louisiana Register*, June 20, 1995, Volume 21, Number 6). The department has now determined that the following additional requirements are needed to insure appropriate delivery of services. The Bureau of Health Services Financing requires a standardized clinical evaluation which must be completed by professional staff who meet the criteria established by the following emergency rule.

Emergency Rule

Effective for dates of service of December 1, 1995 and after, the Bureau of Health Services Financing adopts the following additional requirements for provider participation and service delivery. The standardized clinical evaluation submitted by providers for prior authorization of Mental Health Rehabilitation Services (MHR) must meet the following criteria. The standardized clinical evaluation must be completed by EITHER a Louisiana licensed (1) a board certified social worker and a board certified or board eligible psychiatrist or licensed psychologist OR (2) a board certified or board eligible psychiatrist OR (3) a licensed psychologist. This evaluation must include a face to face interview with the recipient by all professionals signing the evaluation and must provide detailed descriptive information about the recipient's functional status in *Life Areas* as defined by the Office of Mental Health. The information must be submitted on the Standardized Clinical Evaluation form which is available through the regional offices of Mental Health. Key symptoms and functional behaviors are to be identified in sufficient detail so that the impact on the consumer's functioning can be judged independently by an outside reviewer.

Interested persons may submit written comments to:

Thomas D. Collins, 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. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

9511#071

DECLARATION OF EMERGENCY

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

**Mental Health Rehabilitation Optional Targeted Case
Management (CM or MHR)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law".

This action is necessary to avoid possible federal sanctions or penalties due to the potential for duplicative service delivery. It is also necessary to comply with mandated legislative budget requirements and thereby avoid a budget deficit in the medical assistance program. It is anticipated that implementation of this emergency rule and other related emergency rules effective on December 1, 1995 will save the state a combined total of approximately \$23,163,550.

This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The Bureau of Health Services Financing established the standards for participation for the Mental Health Rehabilitation (MHR) Program in a rule published in the *Louisiana Register*, Volume 19, Number 4. The bureau also established the general provisions as well as the standards for participation and payment for the Optional Targeted Case Management Program in an emergency rule published in the *Louisiana Register*, Volume 21, Number 8. The bureau has now determined that in order to ensure the effective coordination of services that are appropriate for the MHR recipient's level of need, case management services shall be included in the MHR Program. The continued operation of optional targeted case management and mental health rehabilitation services as distinct and separate services to a

given Medicaid recipient would result in a duplication of services. Therefore, the Bureau of Health Services Financing has adopted the following rule specifying that reimbursement shall not be made for mental health rehabilitation services and optional targeted case management services provided to the same Medicaid recipient.

Emergency Rule

Effective for dates of service on or after December 1, 1995, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall not provide reimbursement for the delivery of services under the Mental Health Rehabilitation Program and Optional Targeted Case Management Program to the same Medicaid recipient.

Interested persons may submit written comments to: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding this emergency rule. A copy of this rule is available at parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

9511#069

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Program—Service Limits

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning July 13, 1995, for the maximum period allowed under the Administrative Procedure Act.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule to revise certain provisions of the Mental Health Rehabilitation Program in order to incorporate the program guidelines and interpretations of the Health Care Financing Administration. The rule was adopted on April 20, 1993 and published in the *Louisiana Register*, Volume 19, Number 4. A subsequent rule established service limits for certain mental health rehabilitation services and revised the definition of treatment integration to ensure the inclusion of appropriate therapeutic principles and skills for this service which was published on December 20, 1994

(*Louisiana Register*, Volume 20, Number 12). In order to avoid a budget deficit in state fiscal year 1996, the department adopted an emergency rule (*Louisiana Register*, Volume 21, Number 6) effective July 15, 1995 in the Mental Health Rehabilitation Program which instituted the requirement of prior authorization for both the recipient eligibility and the mental health rehabilitation plan. In addition, the department made some temporary reductions in service limits through emergency rulemaking effective for dates of service from July 13, 1995 through October 31, 1995 (*Louisiana Register*, Volume 21, Number 7).

The department has now determined that it is necessary to extend these service limitations through November 31, 1995, in order to avoid a budget deficit in the medical assistance programs and to comply with the budget allocation contained in the Appropriations Act for state fiscal year 1995-1996 for this program.

Psychological evaluations, psychosocial evaluations, medical assessments, management plan development and management plan updates will be limited to one unit each. The department will eliminate procedure code X0103, "Other Evaluations." The department will also impose temporary monthly maximum limits on the rest of the services in the mental health rehabilitation program. Service plans for the given dates of service may not be authorized in excess of these limits, but may be authorized at a lower level. Upon expiration of this rule, the department plans to have developed permanent service limits to be implemented in conjunction with the prior authorization process.

In this issue of the *Louisiana Register* the department is also publishing four emergency rules which redesign the delivery of services for this program effective December 1, 1995.

It is estimated that this action will reduce expenditures in the Mental Health Rehabilitation Program for Adults with Serious Mental Illness and Children with Emotional/Behavioral Disorders by approximately \$4,626,000 for state fiscal 1995-1996.

Emergency Rule

Effective for dates of service November 1, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing eliminates procedure code X0103, "Other Evaluations." Effective for dates of service from November 1, 1995 through November 30, 1995, the Department of Health and Hospitals, Bureau of Health Services Financing adopts the following service limits in the Mental Health Rehabilitation Program for Adults with Serious Mental Illness and Children with Emotional/Behavioral Disorders.

Procedure Code	Service	Monthly Limit
X0107, X0108, X0109	Individual, Family and Group Counseling and Therapy	2 units total**
X0110	Treatment Integration	22 units for children
	Treatment Integration	26 units for adults
X0111	Psychosocial Skills Training	20 units for children
	Psychosocial Skills Training	55 units for adults
X0112	Medication Administration	1 unit
X0113	Medication Monitoring	3 units
X0114	Crisis Intervention	8 units
X0115	Crisis Support	72 units

** Codes X0107, X0108 and X0109 will pay for 0 units of service for dates of service November 1, 1995 through November 30, 1995.

In addition the following procedure codes are limited to a maximum of one unit of service for the period from November 1, 1995 through November 30, 1995.

Procedure Code	Service	Limit
X0100	Medical Assessment	1 unit
X0101	Psychological Evaluation	1 unit
X0102	Psychosocial Evaluation	1 unit
X0104	Rehabilitation Plan Development	1 unit
X0105	Rehabilitation Plan Update	1 unit

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule.

Rose V. Forrest
Secretary

9511#008

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Reimbursement
Methodology and Service Delivery

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law".

This action is necessary to avoid a budget deficit in the medical assistance program. It is anticipated that implementation of this emergency rule and other related emergency rules implemented on December 1, 1995 will save the state a combined total of approximately \$23,163,550. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The bureau adopted a rule on April 20, 1993 published in the *Louisiana Register*, Volume 19, Number 4, which established the standards for participation for the Mental Health Rehabilitation Program and reimbursement requirements. The Office of the Secretary, Bureau of Health Services Financing adopted rules for the Mental Health Rehabilitation Program through emergency rule on July 15, 1995 to establish prior authorization. In accordance with the April 20, 1993 rule cited above, the method of reimbursement had been unit of service. Programmatic revisions to the

Mental Health Rehabilitation Program effective November 1, 1995 as published in the *Louisiana Register*, Volume 21, Number 11, established a need for the change in reimbursement methodology. The department has determined that services in the Mental Health Rehabilitation Program will be paid at a flat rate based on the level of need of the recipient.

Emergency Rule

Effective December 1, 1995 the Bureau of Health Services Financing is amending the rule entitled Mental Health Rehabilitation adopted April 20, 1993, and adopting the following provisions governing recipient eligibility, service delivery requirements and reimbursement methodology. All Mental Health Rehabilitation services must be prior authorized by the bureau or its designee prior to the provision of these services.

I. Recipient Eligibility

Recipients must qualify as a member of the target population by meeting the definition of *seriously mentally ill* as defined by rule (*Louisiana Register*, Volume 20, Number 9) and by meeting the medical necessity criteria for mental health rehabilitation services as measured by the "North Carolina Functional Assessment Scale" for adults and the "Child and Adolescent Functional Assessment Scale" for children/youth. The measurement derived from these scales must indicate that the Medicaid recipient has a high need for mental health rehabilitation services as determined by the Office of Mental Health. Providers must include all information essential for a determination of level of need. All Medicaid recipients of Mental Health Rehabilitation Services must also meet the level of need required for the specific services they are receiving. As Medicaid recipients progress in their rehabilitation, services will be authorized and reimbursed at the medium and low levels of care.

1. The "North Carolina Functional Assessment Scale" provides a rating of the extent to which an adult recipient's mental health disorder is disruptive of functioning in each of six major areas: Emotional Health, Behavior Self/Other, Thinking, Role Performance, Basic Needs, and Substance Abuse. Each sub-scale is rated according to explicit criteria, and the scores are summed to obtain a total functional assessment score.

2. The "Child and Adolescent Functional Assessment Scale" provides a rating of the extent to which a child/adolescent recipient's mental health disorder is disruptive of functioning in each of five major areas: Moods/Self-Harm, Behavior Toward Others, Thinking, Role Performance, and Substance Abuse. Two additional sub-scales assess the extent to which the youth's care giver is able to provide for the needs and support of the youth. Each sub-scale is rated according to explicit criteria, and the scores are summed to obtain a total functional assessment score for both the child and the care giver.

II. Administrative Requirements

A. Psychiatric Director. Each agency is required to have a licensed psychiatrist on staff as the psychiatric director. The director is required to provide a minimum of two hours of on-site clinical supervision/consultation per month for every 10 recipients.

B. Clinical Manager. Each agency is required to have a

clinical manager. The clinical manager is a licensed mental health professional who is responsible for an identified caseload. The clinical manager must be an employee of the Mental Health Rehabilitation Agency. The clinical manager provides ongoing clinical direction. The clinical manager must provide the following minimum requirements for clinical management:

1. The clinical manager must have one face-to-face contact with the adult recipient or two face-to-face contacts with the child and family every 30 days.

2. The clinical manager must provide at least 5 hours of clinical management for adults and 12 hours of clinical management for children during each 90 day action strategy period.

3. The clinical manager must document at least two contacts with other community providers or significant others each month.

4. The clinical manager must provide lead responsibility for the MHR Assessment team.

5. The clinical manager must provide lead responsibility for development and oversight of the MHR Agreement.

6. The clinical manager must assure that all activity plans are developed and implemented.

7. The clinical manager must write the Quarterly Summary Progress Report.

8. The clinical manager provides oversight and access and coordination of all services for the MHR recipient. This includes but is not limited to the provision of the following:

a. assurance of active recipient involvement in all aspects of care;

b. coordination and management of all services provided through the MHR agency;

c. access and coordination of services provided through non-MHR agencies.

C. Staffing Definitions

1. **Mental Health Service Delivery Experience.** Mental health service delivery experience at the professional or paraprofessional level delivered in an organized mental health or psychiatric rehabilitation setting such as a psychiatric hospital, day treatment or mental health case management program, or community mental health center. Evidence of such service delivery experience must be provided by the agency in which the experience occurred.

2. **Supervised Experience.** Experience supervised by a Mental Health professional is mental health services provided under a formal plan of supervision documented by a plan of professional supervision. Evidence of such supervised experience must be provided by the supervising professional and/or agency in which the supervision occurred.

3. **Core Mental Health Disciplines.** Refers to academic training programs in psychiatry, psychology, social work, and psychiatric nursing.

4. **Mental Health-Related Field.** Refers to academic training programs based on the principles, teachings, research and body of scientific knowledge of the core mental health disciplines. To qualify as a related field there must be substantial evidence that the academic program has a curriculum content in which at least 70 percent of the

required courses for graduation are based on the knowledge base of the core mental health disciplines. Programs which may qualify include but are not limited to sociology, criminal justice, nursing, marriage and family counseling, rehabilitation counseling, psychological counseling, and other professional counseling.

5. A licensed mental health professional is defined as follows. An individual qualified to provide professional mental health services. A LMHP is one who meets one of the following education and experience requirements:

a *physician* who is duly licensed to practice medicine in the State of Louisiana and has completed an accredited training program in psychiatry; OR

a *psychologist* who is licensed as a practicing psychologist under the provisions of state law;

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;

a *nurse* who is licensed to act as a registered nurse in the state of Louisiana by the Board of Nursing; AND

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

has a master's degree in nursing or a mental health-related field with two years of supervised experience in the delivery of mental health services;

has four years of experience in the delivery of mental health services; OR

a *licensed professional counselor* who is licensed as such under the provision of state law and has two years supervised experience in the delivery of mental health services post master's degree.

III. The Mental Health Rehabilitation Assessment

The Mental Health Rehabilitation Assessment for Children/Youth and Mental Health Rehabilitation Assessment for Adults includes an initial MHR Assessment and one update, development of an initial Service Agreement and one update of the Service Agreement.

A. The MHR Assessment is a comprehensive, integrated series of assessment procedures conducted largely in the recipient's or his family's daily living environments to determine strengths and needs with regard to functional skills and environmental resources that will enable the Mental Health Rehabilitation recipient to attain a successful and satisfactory community adjustment. The Assessment and Service Agreement must be submitted in the format and utilize the protocols defined by the Office of Mental Health.

B. Assessment procedures at a minimum include but are not limited to the following:

1. review of the Standardized Clinical Evaluation(s) and other pertinent records;

2. face-to-face strengths assessment with the recipient or child/family which must be completed by the clinical manager. The strengths assessment must be in the format defined by the Office of Mental Health.

3. key informant interview(s) (for example: family member, teacher, friend, employer, job coach). For children an interview with the teacher is required;

4. observation(s) in natural settings(s) (for example:

home, school, job site, community). For children an observation in the home and school is required;

5. interview by licensed physician to assess past history of all medications and current medication, specifying issues of polypharmacy and untoward responses;

6. standardized functional assessment scale;

7. Integrated Summary and Prioritized Strengths/Need List must be organized by the life areas;

8. update of the MHR Assessment.

C. The assessment team must include the clinical manager and a licensed physician, at a minimum. Other professionals and paraprofessionals are included as indicated by recipient/family need.

IV. The Mental Health Rehabilitation Service Agreement

The service agreement is a written document which identifies the goals, objectives, action strategies and services which have been agreed to by the MHR agency and the adult recipient or the child and family. The service agreement must be based on the Mental Health Rehabilitation assessment and must address at least two life areas. The agreement is to be submitted in the format defined by the Office of Mental Health and must be approved by the Office of Mental Health prior to the delivery of services. The service agreement is developed by a team which at a minimum consists of the clinical manager, a physician, and the recipient or the child and family. The clinical manager has lead responsibility for oversight of the process.

V. Service Package

A. A service package is a defined range of interventions appropriate for a determined level of need for care (high, medium and low). The service packages are derived from the following menu of services:

1. clinical management;
2. individual intervention (child/youth only);
3. supportive counseling (adults only);
4. parent/family intervention (child/youth only);
5. group counseling;
6. medication management;
7. behavior intervention plan development (child/youth only);
8. individual psychosocial skills training;
9. group psychosocial skills training;
10. service integration.

B. The individualized mix of services for any individual is specified on the 90-day action strategy of the MHR service agreement. The MHR service agreement is derived from the MHR assessment.

C. Reimbursement. Reimbursement is made by a prospective, negotiated and non-capitated rate based on the delivery of services as specified in the service agreement and the service package as required for the adult and child/youth populations.

Adult assessment/service agreement	\$ 700
Child/youth assessment/service agreement	\$ 800

1. The MHR Assessment/Service agreement is reimbursed based on the approval of a MHR assessment and MHR service agreement and are paid semi-annually.

Adult:		Child/Youth:	
High need	\$1300	High need	\$1375
Medium need	\$ 550	Medium need	\$ 800
Low need	\$ 250	Low need	\$ 250

2. Services are reimbursed based on services specified in the 90-action strategy plan and are paid monthly contingent upon the delivery of 80 percent of the prorated 90-day services approved in the MHR service agreement. As Medicaid recipients progress in their rehabilitation services and the level of need decreases, services will transition from the high to medium and or low level of need. Reimbursement will be made in the amounts specified above for the medium and low levels of need as determined by the bureau or its designee.

VI. Crisis Services

The MHR provider is required to maintain a 24-hour on-call system with the capacity to provide 24-hour face-to-face services. With respect to a psychiatric emergency, the MHR physician must first screen the recipient and determine if referral to the Office of Mental Health Crisis Response System is warranted. The format for screening and referral is defined by the Office of Mental Health.

Interested persons may submit written comments to: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

9511#070

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Transitional
Provider Certification

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law".

This action is necessary to avoid a budget deficit in the medical assistance program. It is anticipated that implementation of this emergency rule and other related emergency rules on the Mental Health Rehabilitation Program effective December 1, 1995 will save the state a combined total of approximately \$23,163,550. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative

Procedure Act or until adoption of the final rule, whichever occurs first.

The Office of the Secretary, Bureau of Health Services Financing adopted a rule on April 20, 1993 published in the *Louisiana Register*, Volume 19, Number 4, which defined the standards for participation for the Mental Health Rehabilitation Program. The Bureau of Health Services Financing also established prior authorization for the Health Rehabilitation Program through emergency rule on July 15, 1995 (*Louisiana Register*, Volume 21, Number 7). The following revisions to the Mental Health Rehabilitation Program establish a single provider agency for each recipient to ensure more efficient delivery of services. To implement the single provider agency all current providers of Mental Health Rehabilitation Services will be required to meet new standards for continued enrollment in the Medicaid program in addition to adherence to previously published regulations. Providers must apply to the Bureau of Health Services Financing through the Office of Mental Health for a transitional certification to assure continued enrollment until an on-site visit can be conducted by the BHSF or its designee.

Emergency Rule

Effective for dates of service December 1, 1995 and after the Bureau of Health Services Financing is amending the rule entitled Mental Health Rehabilitation adopted April 20, 1993 (*Louisiana Register*, Volume 19, Number 4) by adopting the following additional standards for participation. The enrolled Mental Health Rehabilitation provider or case management provider must apply to the BHSF through the Office of Mental Health for transitional certification as a Mental Health Rehabilitation provider. The enrolled provider has the ultimate responsibility for the delivery of all services, including those delivered through contractual agreement(s). The enrolled provider must to meet the following requirements and assurances and submit the information to the regional Office of Mental Health:

1. PE-50 completed after October 1, 1995;
2. disclosure of ownership form completed after October 1, 1995;
3. statement identifying the population to be served: adults with serious mental illness, children with emotional/behavioral disorders or both;
4. resumes of the current Mental Health Rehabilitation program director, the psychiatric director, and all clinical managers, including documentation of licensure;
5. identification of the agency's main office, all offices billing with the main office's Medicaid provider number and all regions in which the agency conducts business;
6. proof of general liability of at least \$100,000 and professional liability insurance of at least \$300,000. The certificate holder shall be the Department of Health and Hospitals to receive notice of insurance changes;
7. assure that the following requirements are met and/or agreed to as evidenced by completion of the "Request for Mental Health Rehabilitation Transitional Certification" form provided by the BHSF:
 - a) assure that the enrolled MHR agency will provide clinical management, the MHR assessment and the MHR Service Agreement for all recipients served;
 - b) have the capacity to provide the full range of

services to the full range of recipients served by the Mental Health Rehabilitation Program;

- c) assure that all services provided by the MHR Agency or through contractual arrangement are provided in conformity with all applicable federal and state regulations;
- d) assure that all the service delivery staff meet the requirements as specified in the Mental Health Rehabilitation Program Manual;
- e) assure that the enrolled agency and subcontractors will participate in the Mental Health Rehabilitation data system and provide data on a weekly basis to the Medicaid office or its designee;
- f) assure that the enrolled agency will meet all new certification and enrollment standards as required by the Bureau of Health Services Financing by July 1, 1996 or by the on-site certification visit which is not to occur prior to May 1, 1996. Compliance with the new certification enrollment standards is required by the first occurrence of either of these two events.

The enrolled MHR agency must submit the "Request for Mental Health Rehabilitation Transitional Certification" to the regional Office of Mental Health. If the enrolled agency fails to meet the standards or does not submit the proper documentation, the agency will not be authorized to bill for services delivered after October 31, 1995. Those agencies that have submitted applications for enrollment to the BHSF prior to October 31, 1995, but have not received a Medicaid provider number may also apply for transitional certification by following the guidelines outlined above. Agencies applying for enrollment after October 31, 1995 will have to meet all licensing requirements, current enrollment requirements, participate in an onsite visit by the regional Office of Mental Health and meet the transitional certification requirements.

Enrolled case management agencies may also be eligible for transitional certification as a Mental Health Rehabilitation provider by applying for transitional certification through the regional Office of Mental Health. The agency must meet the standards for Transitional Certification and submit the "Request for Mental Health Rehabilitation Transitional Certification" to the regional Office of Mental Health no later than the close of business January 31, 1996. The agency will not be considered an enrolled MHR agency until the approval of the transitional certification has been granted.

Transitional certification for those agencies who meet the requirements outlined above will be effective until July 1, 1996 or until the on-site certification process is completed, whichever occurs first.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy of this rule is available in the Medicaid parish offices for review by interested parties.

Rose V. Forrest
Secretary

9511#068

DECLARATION OF EMERGENCY

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

Nonemergency Medical Transportation Program

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

The Bureau of Health Services Financing adopted a rule on October 20, 1994 (*Louisiana Register*, Volume 20, Number 10) which requires that providers of nonemergency medical transportation providers submit a true and correct document of the insurance policy for automobile and general liability. The bureau has determined that the following changes are necessary to ensure the provision of nonemergency medical transportation providers and thereby protect the health and welfare of Medicaid recipients in need of these services. The following emergency rule allows submission of the certificate of the insurance pending receipt of the true and correct policy. Also the requirement for the submittal of documentation to the bureau has been modified by also requiring that the policy is to be submitted to the bureau within 45 days after enrollment or renewal. In addition submission of the reinstatement endorsement is acceptable in certain situations, for example, following cancellation or proposed cancellation when there has been no change in coverages under the policy. The prepayment requirement is also being changed from six to three months. A new provision for a 30-day suspension of scheduling privileges will be instituted for those providers who experience a lapse of coverage more than twice in a calendar year. There is no anticipated increase or decrease in program expenditures due to the implementation of this emergency rule.

The following emergency rule continues these provisions in force until adoption of the rule under the Administrative Procedure Act. An emergency rule was initially adopted on July 20, 1995 (*Louisiana Register*, Volume 21, Number 7) and a notice of intent was also published (*Louisiana Register*, Volume 21, Number 8).

Emergency Rule

Effective November 16, 1995 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the following provisions in the Nonemergency Medical Transportation Program which revise prior regulations governing insurance regulations for the Nonemergency Medical Transportation Program.

1. Nonemergency medical transportation providers shall have, at minimum, general liability coverage of \$300,000 on the business entity. Providers shall have, at minimum, automobile liability coverage of \$100,000 per person and \$300,000 per accident or a combined single limit of \$300,000. This liability policy shall include "owner" autos,

hired autos and nonowned, leased, autos.

2. The agency requires proof of coverage and such proof shall be in the form of a true and correct copy of the insurance policy for automobile and general liability issued by the home office of the insurance company. The policy must be submitted to the bureau within 45 days of issuance or renewal of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Services Financing. If the true and correct copy of the insurance policy is not received within 45 days then the provider scheduling and transporting privileges shall be suspended effective with the 46th day. A certificate from the insurance agent, including a facsimile, shall be acceptable proof of insurance for up to 45 days to allow time for the issuance of the policy. The certificate must include the dates of coverage and shall stipulate that the policy includes a 30-day cancellation notification clause. If a facsimile copy of a certificate from an insurance agent is submitted the original shall be submitted timely to the bureau.

3. When insurance is cancelled or expires provider scheduling and transporting shall be immediately terminated. Transportation providers must maintain insurance coverage as a condition of participation in the Medicaid program.

4. Proof of renewal and reinstatement must be received by the Bureau of Health Services Financing at least 48 hours prior to the end date of coverage. Reinstatement endorsements will be accepted to verify coverage after cancellation or proposed cancellation only if there has been no change in coverage and if signed and dated by the agent or company representative authorized to reinstate coverage. Any provider whose automobile and or general liability coverage lapses more than twice within a calendar year will have their transporting and scheduling privileges suspended for 30 days effective with the day after the date the agency has knowledge that the coverage has lapsed the second time. Certificates from agents verifying retroactive coverage will not be accepted as a reason to waive this penalty.

5. The agency shall be notified immediately when there are changes in coverage. The required proof and procedures for documenting changes shall follow the procedures used to initially verify coverage. Changes to the 30-day cancellation notification to the agency shall result in immediate termination from participation.

6. Premiums shall be prepaid for a period of three months. Acceptable proof of prepaid insurance shall at a minimum include a statement from the authorized agent (signed and dated) or company representative which includes the dates of coverage and dates through which the premium is paid. This statement is in effect through the end date of payment noted and another statement verifying prepayment for the following three months should be received by the Bureau of Health Services financing 48 hours prior to expiration.

7. Providers who lose the right to participate for failure to prepay insurance may re-enroll in the transportation program and will be subject to all applicable enrollment policies, procedures and fees for new providers.

8. The agency will accept a safe driver training certificate from any school recognized by the National Safety Council or its equivalent.

A copy of this rule is available at Parish Medicaid Offices for review by interested parties.

Rose V. Forrest
Secretary

9511#084

DECLARATION OF EMERGENCY

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

Optional Targeted Case Management
Services—Reimbursement

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

The Bureau of Health Services Financing currently funds case management services to the following specific population groups: 1) mentally retarded or developmentally disabled individuals including developmentally delayed infants and toddlers (termed infants and toddlers with special needs under this emergency rule); 2) pregnant women in need of extra perinatal care (termed high-risk pregnant women under this emergency rule) (limited to the metropolitan New Orleans area); 3) HIV disabled individuals (termed persons infected with HIV under this emergency rule); 4) chronically mentally ill (termed seriously mentally ill individuals - for adults and children/youths with emotional/behavioral disorders under this emergency rule); 5) participants in waivers which include case management as a service; and 6) ventilator-assisted children. The bureau has adopted rules governing case management services as the needs of the population groups for these services became apparent and in accordance with available funding.

There has been a tremendous growth in interest on behalf of the public in providing these services to the Medicaid populations. In addition, as these services have been implemented and governed under specific program regulations over the past five years, the department now seeks to enhance all these services to the optimal level while streamlining their administration. In addition this emergency rule establishes enhanced regulations governing consumer eligibility, provider enrollment, provider standards for participation and payment, and general provisions. The department adopted emergency rules to ensure uniform standards for the quality of the services delivered to these persons with special physical and/or health needs and conditions effective July 22, 1994 and August 13, 1994 (*Louisiana Register*, Volume 20, Numbers 6 and 7). Subsequent emergency rules continued this initiative in force as published in the (*Louisiana Register*, November 20, 1994, Volume 20, Number 11, and April 20, 1995, Volume

21, Number 4), and July 15, 1995 (Volume 21, Number 8). The following emergency rule is also being adopted to continue these provisions in force in order to ensure the health and welfare of the targeted populations with special and/or health needs and conditions. An emergency rule was adopted on October 1, 1995, (*Louisiana Register*, Volume 21, Number 10) establishing additional minimum program standards and reimbursement methodology governing the reimbursement of these services. A notice of intent proposing to adopt these emergency rule provisions is included in this issue of the *Louisiana Register*.

Emergency Rule

Effective November 11, 1995 the Bureau of Health Services Financing repeals all previously adopted rules on case management services and adopts the following consumer eligibility requirements, provider enrollment, provider standards for participation and payment, and general provisions. This emergency rule applies to case management services provided either to targeted population groups or under a waiver program(s) in which case management services are included. This emergency rule governs case management services for the following specific population groups: 1) mentally retarded/developmentally disabled individuals; 2) infants and toddlers with special needs; 3) high-risk pregnant women; 4) persons infected with HIV; 5) seriously mentally ill individuals; and 6) persons in waiver program(s) in which case management services are included. Services for ventilator-assisted children are terminated as a specific targeted group but these children may be eligible under the other target groups listed above. All case management providers must follow the policies and procedures included in this emergency rule as well as in the Department of Health and Hospitals *Case Management Provider Manual*. Under this rule the term *case management* has the same meaning as the term *family service coordination*. Case management services must be delivered in accordance with all applicable federal and state laws and regulations.

I. Standards of Participation

In order to be reimbursed by the Medicaid Program, a provider of targeted or waiver case management service must comply with all of the requirements listed below. Exceptions may be granted by the secretary on a case-by-case basis based on an assessment of available services in the community.

A. Provider Enrollment Requirements. Case management agencies who wish to provide Medicaid funded targeted or waiver case management services must contact the department to request an enrollment packet and copy of the *DHH Case Management Provider Manual*. Applicants must indicate the population(s) and the geographical areas they wish to serve. The provider must meet all applicable licensure, general standards for participation in the Medicaid Program and specific provider enrollment and participation requirements for the population(s) to be served. Each enrolling agency must also submit a separate provider agreement (Form PE-50) and Disclosure of Ownership form to DHH for each targeted or waiver population and geographical area (DHH region) the agency plans to serve. Providers of services to the seriously mentally ill must meet the re-enrollment requirements of the Medicaid

Program.

Each office site of a case management agency must be enrolled separately. Approval by DHH entitles the agency to provide services in the parishes of that DHH region only. This requirement is applicable to both new providers and existing providers already enrolled. When an agency wishes to provide case management services in a parish in another region and that parish is not contiguous to the parish in which an enrolled office site is located, the agency must establish an office in other region, submit a separate enrollment packet, and receive DHH approval to provide services in that DHH region regardless of the number of case managers providing services in the new region. When there are less than three case managers providing services in a parish in another region and that parish is contiguous to the parish in which an enrolled office site is located, the agency is not required to establish an office in the other region.

In accordance with Section 4118(I) of the Omnibus Budget Reconciliation Act (OBRA) of 1987, Public Law 100-203, the department may restrict enrollment and service areas of agencies that are enrolled in the Medicaid Program to provide case management services to seriously mentally ill and developmentally disabled consumers including infants and toddlers with special needs in order to ensure that the case management providers available to these targeted groups and any subgroups are capable of ensuring that the targeted consumers receive the full range of needed services. Case management agencies must meet the enrollment requirements listed below to be approved for enrollment.

All applicant case management agencies must meet the requirements 1-15 listed below to participate as a case management provider in the Medicaid Program, regardless of the targeted or waiver group served:

1. has demonstrated direct experience in successfully serving the target population and demonstrated knowledge of available community services and methods for accessing them including all of the following:

a. has established linkages with the resources available in the consumer's community;

b. maintains a current resource file of medical, mental health, social, financial assistance, vocational, educational, housing and other support services available to the target population; and

c. demonstrates knowledge of the eligibility requirements and application procedures of federal, state, and local government assistance programs which are applicable to consumers served;

d. employs a sufficient number of qualified case manager and supervisory staff who meet the skills, knowledge, abilities, education, training, supervision, staff coverage and maximum caseload size requirements described in Section C below;

2. possesses a current license to provide case management/service coordination in Louisiana or written proof of application for licensure;

3. demonstrates administrative capacity to provide all core elements of case management and insure effective case management services to the target population in accordance with licensing and DHH requirements by DHH review of the following:

- a. current detailed budget for case management;
- b. report of annual outside audit by a CPA performed in accordance with generally accepted accounting principles;
- c. cost report by September 30 of each year following 12 months of operation;
- d. provider policies and procedures;
- e. functional organization chart depicting lines of authority; and
- f. program philosophy, goals, services provided, and eligibility criteria that defines the target population or waiver group to be served;

4. assures that all case manager staff is employed by the agency in accordance with Internal Revenue Service (IRS) regulations (including submission of a W-2 form on each case manager). Contracting case manager staff is prohibited. Contracting of supervisors must comply with IRS regulations. Each case manager must be employed 20 hours per week;

5. assures that all new staff satisfactorily complete an orientation and training program in the first 90 days of employment and possess adequate case management abilities, skills and knowledge before assuming sole responsibility for their caseload and each case manager and supervisor satisfactorily complete case management related training on an annual basis to meet at least minimum training requirements described below. The provision and/or arranging of such training is the responsibility of the provider;

6. has a written plan to determine the effectiveness of the program and agrees to implement a continuous quality improvement plan approved by the department;

7. documents and maintains an individual record on each consumer which includes all of the elements described in licensing standards for case management and Section III.A. below;

8. agrees to safeguard the confidentiality of the consumer's records in accordance with federal and state laws and regulations governing confidentiality;

9. assures a consumer's right to elect to receive case management as an optional service and the consumer's right to terminate such services;

10. assures that no restriction will be placed on the consumer's right to elect to choose a case management agency, a qualified case manager, and other service providers and change the case management agency, case manager and service providers consistent with Section 1902(a)(23) of the Social Security Act;

11. if currently enrolled as a Medicaid case management provider, assures that case managers will not provide case management and Medicaid reimbursed direct services to the same consumer(s). If enrolled as a case management provider assure that the agency will not provide case management and other Medicaid reimbursed direct services to the same consumers.

12. has financial resources and a financial management system capable of:

a. adequately funding required qualified staff and services;

b. providing documentation of services and costs;

c. complying with state and federal financial

reporting requirements; and

d. submitting reports in the manner specified by Medicaid;

13. maintains a written policy for intake screening, including referral criteria;

14. maintains a written policy for transition and closure;

15. with the consumer's permission, agrees to maintain regular contact with, share relevant information and coordinate medical services with the consumer's primary care or attending physician or clinic;

16. fully complies with the Code of Governmental Ethics.

Applicants must meet the following additional enrollment requirements for specific target groups:

17. has a working relationship with a local inpatient hospital and a 24-hour crisis response system (applicable to seriously mentally ill case management only);

18. demonstrates the capacity to participate and agrees to participate in the Case Management Information System (CAMIS) and provide up-to-date data to the regional office on a monthly basis via electronic mail (applicable to seriously mentally ill, infants and toddlers with special needs, and developmentally disabled children 3 years and older and adults only). CAMIS and electronic mail software will be provided without charge to the provider;

19. has demonstrated successful experience with delivery and/or coordination of services for pregnant women; Has a working relationship with a local obstetrical provider/ acute care hospital providing deliveries for 24-hour medical consultation; has a multi-disciplinary team consisting, at a minimum, of: a physician, primary nurse associate or CNM; registered nurse; social worker; and nutritionist; all team members must meet DHH licensure and perinatal experience requirements (applicable to high risk pregnant women only);

20. satisfactorily complete a one-day training provided by the Delta Region AIDs Education and Training Center (applicable to HIV infected).

An enrolled case management provider must re-enroll requesting a separate Medicaid provider number and is subject to the above-described enrollment requirements and procedures in order to provide case management services to an additional target population.

Applicants will be subject to review by DHH to determine ability and capacity to serve the target population and a site visit to verify compliance with all provider enrollment requirements prior to a decision by the Medicaid Program on enrollment as a case management provider or at any time subsequent to enrollment. Enrolled case management providers will be subject to review by the DHH and the U.S. Department of Health and Human Services to verify compliance with all provider enrollment requirements at any time subsequent to enrollment.

If the applicant agency is determined to be eligible for enrollment, the agency will be notified in writing by the Medicaid Program of the effective date of enrollment and the unique Medicaid case management provider number for each office site and targeted or waiver group. If the department determines that the applicant case management agency does not meet the general or specific enrollment requirements listed above, the applicant agency will be notified in writing

of the deficiencies needing correction. The applicant agency must submit appropriate documentation of corrective action taken. If the applicant agency fails to submit the required documentation of corrective action taken within 30 days of the notice, the application will be rejected. If the case management agency does not meet all of the requirements 1-14 in Section A above, the applicant agency will be ineligible to provide case management services to any targeted or waiver group.

II. Standards of Payment

In order to be reimbursed by the Medicaid Program, an enrolled provider of targeted or waiver case management service must comply with all of the requirements listed below. Exceptions may be granted by the secretary on a case-by-case basis based on an assessment of available services in the community.

A. Staff Coverage. All case managers must be employed by the case management agency a minimum of 20 hours per week and work at least 50 percent of the time during normal business hours (8 a.m. to 5 p.m., Monday through Friday). Contracting of case manager staff is prohibited. Case management supervisors must be employed a minimum of eight hours per week for each full-time case manager (four hours a week for each part-time case manager) they supervise and maintain on-site office hours at least 50 percent of the time. A supervisor must be continuously available to case managers by telephone or beeper at all other times when not on site when case management services are provided. The provider agency must ensure that case management services are available 24 hours a day, seven days a week.

B. Staff Qualifications. Each Medicaid enrolled provider must ensure that all staff providing targeted case management services have the skills, qualifications, training and supervision in accordance with licensing standards and the department requirements listed below. In addition, the provider must maintain sufficient staff to serve consumers within mandated caseload sizes described below:

1. Education and Experience for Case Managers. All case managers hired or promoted must meet all of the following minimum qualifications for education and experience:

a. a bachelor's degree in a human service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution; AND one year of paid experience in a human service-related field providing direct consumer services or case management in the human service-related field; OR

b. a licensed registered nurse; AND one year of paid experience as a registered nurse in public health or a human service-related field providing direct consumer services or case management in the human service-related field; OR

c. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education;

d. thirty hours of graduate level course credit in the human service-related field may be substituted for the year of required paid experience.

The above general minimum qualifications for case managers are applicable for all targeted and waiver

groups. Additional qualifications for specific targeted or waiver groups are delineated below:

High Risk Pregnant Women. Each Medicaid enrolled provider must ensure that all case managers providing targeted case management services to high risk pregnant women meet the following qualifications:

a. a bachelor's degree in a human service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution; AND one year of paid experience in a human service-related field providing direct consumer services or case management in the human-service-related field; AND demonstrated knowledge about perinatal care;

b. a licensed registered nurse; AND one year of paid experience as a registered nurse in public health or a human service-related field providing direct consumer services or case management in the human service-related field; AND demonstrated knowledge about perinatal care; OR

c. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education; AND demonstrated knowledge about perinatal care; OR

d. a registered dietician; AND one year of paid experience in providing nutrition services to pregnant women.

Developmentally Disabled Waiver Participants. Each Medicaid enrolled provider of case management services to developmentally disabled under the waiver must ensure that all case managers have a minimum of one year of paid post-degree experience working directly with persons with mental retardation or developmentally disabilities.

2. Education and Experience for Case Management Supervisors. A case management supervisor hired or promoted or any other individual supervising case managers must meet all of the education and experience requirements listed below. Staff supervising case management for high risk pregnant women and individuals with acquired head injuries must meet the same qualifications as the case managers for these populations:

a. a master's degree in psychology, nursing, counseling, rehabilitation counseling, education (with special education certification), occupational therapy, speech therapy or physical therapy from an accredited institution; AND two years of paid post-bachelor's degree experience in a human service-related field providing direct consumer services or case management in the human service-related field; one year of this experience must be in providing direct services to the target population to be served; OR

b. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education; AND two years of paid post-bachelor's degree experience in a human service-related field providing direct consumer services or case management in the human service-related field. One year of this experience must be in providing direct services to the target population to be served; OR

c. a licensed registered nurse AND three years of paid post-licensure experience as a registered nurse in public health or a human service-related field providing direct consumer services or case management in the human service-

related field. Two years of this experience must be in providing direct services to the target population to be served; OR

d. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution; AND four years of paid post-bachelor's degree experience in a human-service-related field providing direct consumer services or case management in the human-service-related field; Two years of this experience must be in providing direct services to the target population to be served;

e. thirty hours of graduate level course credit in the human-service-related field may be substituted for one year of required paid experience.

The above general minimum qualifications for case management supervisors are applicable for all targeted and waiver groups. Additional qualifications for specific targeted or waiver groups are delineated below:

High Risk Pregnant Women. Each Medicaid enrolled provider must ensure that all case management supervisory staff for high risk pregnant women meet the following qualifications:

a. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution; AND four years of paid post-bachelor's degree experience in a human-service-related field providing direct consumer services or case management in the human-service-related field; two years of this experience must be in providing direct services to the target population to be served; AND demonstrated knowledge about perinatal care;

b. a licensed registered nurse; AND three years of paid post-bachelor's degree experience in a human-service-related field providing direct consumer services or case management in the human-service-related field; two years of this experience must be in providing direct services to the target population to be served; AND demonstrated knowledge about perinatal care; OR

c. a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education; AND two years of paid post-bachelor's degree experience in a human-service-related field providing direct consumer services or case management in the human-service-related field. One year of this experience must be in providing direct services to the target population to be served; AND demonstrated knowledge about perinatal care; OR

d. a registered dietician; AND three years of paid post-bachelor's degree experience in a human-service-related field providing direct consumer services or case management in the human-service-related field; two years of this experience must be in providing direct services to pregnant women.

3. Requisite Knowledge, Skills and Abilities. Each Medicaid enrolled provider must look for the following knowledge, skills and abilities in hiring case management staff and must ensure that all staff providing targeted or waiver case management services possess the following basic knowledge, skills, and abilities prior to assuming full caseload responsibilities:

a. Knowledge:

- (1) community resources;
- (2) medical terminology;
- (3) case management principles and practices;
- (4) consumer rights;
- (5) state and federal laws for public assistance;

b. Skills:

- (1) time management;
- (2) assessment;
- (3) interviewing;
- (4) listening;

c. Abilities:

- (1) preparing service plans;
- (2) coordinating delivery of services;
- (3) advocating for the consumer;
- (4) communicating both orally and in writing;
- (5) establishing and maintaining cooperative

working relationships;

- (6) maintaining accurate and concise records;
- (7) assessing medical and social aspects of each case and formulating service plans accordingly;
- (8) problem solving;
- (9) remaining objective while accepting the consumer's lifestyle.

4. Training. Case manager and supervisor training must be provided by or arranged by the case manager's employer at the employer's expense.

Training for New Case Managers. Orientation of at least 16 hours must be provided to all staff, volunteers, and students within one week of employment which must include, at a minimum:

- a. provider policies and procedures;
- b. Medicaid/Program Office policies and procedures;
- c. confidentiality;
- d. documentation in case records;
- e. consumer rights protection and reporting of violations;
- f. consumer abuse and neglect policies and procedures;
- g. professional ethics;
- h. emergency and safety procedures;
- i. data management and record keeping;
- j. infection control and universal precautions;
- k. working with the target population.

A minimum of eight hours of the orientation training must cover orientation on the target population including but not limited to specific service needs and resources. In addition to the required 16 hours of orientation, all new employees with no documented required experience and training must receive a minimum of 16 hours of training during the first 90 calendar days of employment which is related to the target population served and specific knowledge, skills, and techniques necessary to provide case management to the target population. This training must be provided by an individual with demonstrated knowledge of the training topics and the target population. This training must include the following at a minimum:

- a. assessment techniques;
- b. service planning;
- c. resource identification;
- d. interviewing and interpersonal skills;
- e. data management and record keeping;

f. communication skills.

Annual Training. A case manager must satisfactorily complete 40 hours of case-management related training annually which may include training updates on subjects covered in orientation and initial training. For new employees, the 16 hours of orientation training are not included in the 40-hour minimum annual training requirement. The 16 hours of training for new staff required in the first 90 days of employment may be part of this 40-hour minimum annual training requirement. Appropriate updates of topics covered in orientation and training for a new case manager must be included in the required 40 hours of annual training. The following is a list of suggested additional topics for training:

- a. nature of illness or disability, including symptoms and behavior;
- b. pharmacology;
- c. potential array of services for the population;
- d. building natural support systems;
- e. family dynamics;
- f. developmental life stages;
- g. crisis management;
- h. first aid/CPR;
- i. signs and symptoms of mental illness, alcohol and drug addiction, mental retardation/developmental disabilities and head injuries;
- j. recognition of illegal substances;
- k. monitoring techniques;
- l. advocacy;
- m. behavior management techniques;
- n. value clarification/goals and objectives;
- o. available community resources;
- p. accessing special education services;
- q. cultural diversity;
- r. pregnancy and prenatal care;
- s. health management;
- t. team building/interagency collaboration;
- u. transition/closure;
- v. age and condition-appropriate preventive health care;
- w. facilitating team meetings;
- x. computers;
- y. stress and time management;
- z. legal issues.

Each case management supervisor must complete 40 hours of training a year, at a minimum. In addition to the required and suggested topics for case managers, the following are suggested topics for supervisory training:

- a. professional identification/ethics;
- b. process for interviewing, screening, and hiring of staff;
- c. orientation/in-service training of staff;
- d. evaluating staff;
- e. approaches to supervision;
- f. managing caseload size;
- g. conflict resolution;
- h. documentation;
- i. time management;

The required orientation and training for case managers and supervisors described above must be

documented in the employee's personnel record including: dates and hours of specific training, trainer or presenter's name, title, agency affiliation or qualification, other sources of training and orientation/training agenda.

Training-Infants and Toddlers with Special Needs. A minimum of eight hours of orientation for new family service coordination staff must be ChildNet specific training as defined by the Department of Education. A minimum of 24 additional hours of training must be provided to new family service coordinators hired in the first 90 days of employment. This training must cover advanced subjects as defined by the Department of Education in addition to the subjects listed above. Initial training specific to ChildNet must be arranged and/or coordinated by the Regional Infant/Toddler Coordinator. Specific ChildNet training content must be approved by a sub-committee of the State Interagency Coordinating Council. Advanced training in specific subjects must be satisfactorily completed prior to the case manager/family service coordinator assuming those duties. Ongoing annual training is the responsibility of the family service coordination agency.

New family service coordination supervisors must satisfactorily complete a minimum of 40 hours of family service coordination training before assuming supervisory duties for this target population. Experienced supervisors must also complete a minimum of 40 hours per calendar year on advanced ChildNet specific subjects defined by the Department of Education.

Mandatory Medicaid Training. Enrolled case management agencies must ensure that all case management staff satisfactorily complete DHH provider required training on case management policies and procedures contained on this document and the *DHH Case Management Provider Manual*.

C. Supervision. Each case management agency must have and implement a written plan for supervision of all case management staff. Face-to-face supervision must occur at least one time per week per case manager for a minimum of one hour per week. Supervisors must review at least 10 percent of each case manager's case records each month for completeness, compliance with these standards, and quality of service delivery. Case managers must be evaluated at least annually by their supervisor according to written provider policy on evaluating their performance. Supervision of individual staff must include the following:

- a. direct review, assessment, problem solving, and feedback regarding the delivery of case management services;
- b. teaching and monitoring of the application of consumer centered principles and practices;
- c. assuring quality delivery of services;
- d. managing assignment of caseloads; and
- e. arranging for training as appropriate.

The case manager supervisor must utilize by a combination of more than one of the following means:

- a. individual, face-to-face sessions with staff to review cases, assess performance and give feedback;
- b. group face-to-face sessions with all case management staff to problem solve, provide feedback and support to case managers;
- c. sessions in which the supervisor accompanies a

case manager to meet with consumers; The supervisor assesses, teaches, and gives feedback regarding the case managers' performance related to the particular consumer.

Each supervisor must maintain a file on each case manager supervised and hold supervisory sessions on at least a weekly basis. The file on the case manager must include, at a minimum:

- a. date and content of the supervisory sessions; and
- b. results of the supervisory case review which shall address, at a minimum: completeness and adequacy of records; compliance with standards; and, effectiveness of services.

Each case management supervisor must not supervise more than five full-time case managers or a combination of full-time case managers and other human service staff. A supervisor may carry one-fifth of a caseload for each case manager supervised less than five supervisees. If the supervisor carries a caseload, he or she must be supervised by an individual who meets the supervisor qualifications in Section A above.

D. Caseload Size Standards. Each full-time case manager is subject to a maximum caseload of consumers as indicated below:

	Case Weight
Infants and toddlers with special needs	351.14
Developmentally disabled (age 3 and older)	45.888
High risk pregnant women	60.666
HIV infected	45.888
Seriously mentally ill	251.60
Fragile elderly	45.888

Mixed caseloads are those where a case manager serves at least five consumers from a second target population or five waiver participants. For caseloads containing consumers who are seriously mentally ill in addition to those who are developmentally disabled or are infants and toddlers with special needs, the maximum caseload is 35. For other "mixed" caseloads, the number of cases must be likewise prorated.

E. Consumer Eligibility Requirements for Targeted Populations. Case management providers must ensure that consumers of Medicaid funded targeted case management services are Medicaid eligible and meet the additional eligibility requirements specific to the targeted or waiver population group. The eligibility requirements for each targeted and waiver group are listed below. With respect to infants and toddlers with special needs, this determination is made through the Multi-disciplinary Evaluation (MDE) process and is not the responsibility of the case management/family service coordination agency. Also, the service plan for case management services provided to mentally retarded/developmentally disabled individuals and infants and toddlers with special needs is subject to prior authorization by the Medicaid agency or its designee. Providers are required to participate in provider training and technical assistance as required by the Medicaid agency or its designee.

1. Infants and Toddlers with Special Needs

- a. a documented established medical condition determined by a licensed medical doctor. In the case of a hearing impairment, licensed audiologist or licensed medical doctor must make the determination; OR
- b. a developmental delay in one or more of the

following areas:

- (1) cognitive development;
- (2) physical development, including vision and hearing eligibility must be based on a documented diagnosis made by a licensed medical doctor (vision) or a licensed medical doctor or licensed audiologist (hearing);
- (3) communication development;
- (4) social or emotional development;
- (5) adaptive development;

The determination of a developmental delay must be made in accordance with applicable federal regulations and ChildNet policies and procedures.

2. Developmentally Disabled Children Ages 3 Years and Older and Adults must meet the following definition of *developmental disability*:

a. a severe chronic disability of a person which is attributable to: mental retardation, cerebral palsy, autism or epilepsy; OR any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, or requires treatment or services similar to those required for these persons; AND

b. which is manifested before the person reaches age 22; AND

c. which is likely to continue indefinitely; AND

d. which results in substantial functional limitations in three or more of the following areas of major life activities. Substantial functional limitation means more than two standard deviations below the mean obtained by assessment with one or more standardized evaluation instruments which measure the following areas of major life activities:

- (1) self care;
- (2) understanding and use of language;
- (3) learning;
- (4) mobility;
- (5) self-direction;
- (6) capacity for independent living; AND

e. the consumer must require and is unable to access services from multiple services providers, except in the instance of consumers eligible for waiver services; AND

f. the consumer is at risk of becoming homeless or in need of protection from harm due to environmental or life circumstances, need for supervision, or potential threat of abuse or neglect; OR the consumer has been institutionalized, is at risk of becoming institutionalized or would otherwise require ICF/MR level of care.

3. High-Risk Pregnant Women

a. Pregnancy must be verified by a licensed physician, licensed primary nurse associate, or certified nurse midwife;

b. Reside in the metropolitan New Orleans area including Orleans, Jefferson, St. Charles, St. John and St. Tammany parishes;

c. Be determined high risk based on a standardized medical risk assessment. A *medical risk assessment (screening)* must be performed by a licensed physician, a licensed primary nurse associate, or a certified nurse-midwife to determine if the patient is high risk. A pregnant woman is considered high risk if one or more risk factors are indicated

on the form used for risk screening. Providers of medical risk assessment must use the standardized Risk Screening Form approved DHH.

d. Must require services from multiple health, social, informal and formal service providers and is unable to access the necessary services.

4. HIV Infected

a. Written verification of HIV infection by a licensed physician or laboratory test result is required.

b. The *adult* consumer must have reached, as documented by a physician, a level 70 on the Karnofsky scale (or cares for self but is unable to carry on normal activity or do active work) at some time during the course of HIV infection.

c. The *pediatric* consumer must display symptoms of illness related to HIV infection. All consumers must require services from multiple health, social, informal and formal service providers and is unable to access the necessary services.

5. Seriously Mentally Ill

a. *Adults 18 years and older* must meet all of the following criteria for (1), (2), (3) and (4) for serious mental illness (SMI):

(1) Age: 18 years or older; and

(2) Diagnosis: severe non-organic mental illnesses including, but not limited to schizophrenia, schizoaffective disorders, mood disorders, and severe personality disorders, that substantially interfere with a person's ability to carry out such primary aspects of daily living as self-care, household management, interpersonal relationships and work or school; and

(3) Disability: impaired role functioning, caused by mental illness, as indicated by at least two of the following functional areas: unemployed or has markedly limited skills and a poor work history, or if retired, is unable to engage in normal activities to manage income; employed in a sheltered setting; requires public financial assistance for out-of-hospital maintenance (e.g., SSI, and/or is unable to procure such without help, does not apply to regular retirement benefits); severely lacks social support systems in the natural environment, (e.g., no close friends or group affiliations, lives alone, or is highly transient); requires assistance in basic life skills, (e.g., must be reminded to take medicine, must have transportation arranged for them, needs assistance in household management tasks); exhibits social behavior which results in demand for intervention by the mental and/or judicial/legal system; and

(4) Duration: must meet at least one of the following indicators of duration: psychiatric hospitalizations of at least six months in the last five years (cumulative total); two or more hospitalizations for mental disorders in the last twelve-month period; a single episode of continuous structural supportive residential care other than hospitalization for a duration of at least six months; a previous psychiatric evaluation indicating a history of treatment for severe psychiatric disability of at least six months duration.

b. *Children/youth (under age 18) with emotional/behavioral disorders* is defined as follows: behavioral or emotional responses so different from appropriate age,

cultural, or ethnic norms that they adversely affect performance (including academic, social, vocational or personal skills); a disability which is more than a temporary, expected response to stressful events in the environment, is consistently exhibited in two different settings and persists despite individualized intervention within general education and other settings. Emotional and behavioral disorders can co-exist with other disabilities.

The following criteria are being established for children/youth with emotional/behavioral disorders and requires that (1), (2), and (3) described below, be met before someone can be described as having an emotional/behavioral disorder. For the purposes of eligibility for Medicaid case management services, there must be a diagnosis as contained in section (2) below, and, a disability as described in section (3) and, a duration of impairment or patterns of inappropriate behavior which has persisted for at least three months and will persist for at least a year.

(1) Age: under age 18; and

(2) Diagnosis: meets one of the following criteria which operationalize the above definition:

(a) exhibits seriously impaired contact with reality, and severely impaired social, academic, and self-care functioning, whose thinking is frequently confused, whose behavior may be grossly inappropriate and bizarre, and whose emotional reactions are frequently inappropriate to the situation; or

(b) manifest long-term patterns of inappropriate behaviors, which may include but are not limited to aggressiveness, anti-social acts, refusal to accept adult requests or rules, suicidal behavior, developmentally inappropriate inattention, hyperactivity, or impulsiveness; or

(c) experience serious discomfort from anxiety, depression, or irrational fears and concerns whose symptoms may include but are not limited to serious eating and/or sleeping disturbances, extreme sadness, suicidal ideation, persistent refusal to attend school or excessive avoidance of unfamiliar people, maladaptive dependence on parents, or non-organic failure to thrive; or

(d) have a DSM-III-R (or successor) diagnosis indicating a severe mental disorder, such as, but not limited to psychosis, schizophrenia, major affective disorders, reactive attachment disorder of infancy or early childhood (non-organic failure to thrive) or severe conduct disorder. This category does not include children/youth who are socially maladjusted unless it is determined that they also meet the criteria for emotional/behavior disorders; and

(3) Disability: there is evidence of severe, disruptive and/or incapacitating functional limitations of behavior characterized by at least two of the following: inability to routinely exhibit appropriate behavior under normal circumstances; tendency to develop physical symptoms or fears associated with personal or school problems; inability to learn or work that cannot be explained by intellectual, sensory, or health factors; inability to build or maintain satisfactory interpersonal relationships with peers and adults; a general pervasive mood of unhappiness or depression; conduct characterized by lack of behavioral control or adherence to social norms which is secondary to an emotional disorder. If all other criteria are met, then

"conduct disorders" are eligible; and

(4) Duration: impairment or patterns of inappropriate behavior must have persisted for at least three months and will persist for at least a year.

6. Frail Elderly. The consumer must be a participant in the Home Care for the Elderly waiver.

F. Description of Case Management Services/Provider Responsibilities. The definition of *case management* adopted by the department is "services provided by qualified staff to the targeted or waiver population to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services." Targeted and waiver case management services consists of intake, assessment, service planning, linkage/service coordination, monitoring/follow-up, reassessment, and transition/closure. The department utilizes a broker model of case management in which consumers are referred to other agencies for specific services they need. These services are determined by professional assessment of the consumer's needs and provided according to a comprehensive individualized written service plan. All case management services must be provided by qualified staff as defined in Section A above. The provider must ensure that there is no duplication of payment, that there is only one case manager for each eligible consumer and that the consumer is not receiving other targeted case management services from any other provider.

The required core elements of targeted or waiver case management services and provider responsibilities which all Medicaid enrolled case management agencies must comply with are described below:

1. Case Management Intake. *Intake* is defined as the determination of eligibility and need for targeted case management services. Intake is the entry point into case management. The purpose of intake is to gather baseline information to determine the consumer's need, appropriateness, eligibility and desire for case management. The case management provider must have written eligibility criteria for case management services provided by the agency. The required procedures of intake screening are:

a. interview the consumer within *three working days* of receipt of a referral, preferably face-to-face;

b. determine if the consumer is currently Medicaid-eligible;

c. determine if the consumer is eligible for services by virtue of the eligibility requirements of the target population described in Section B above;

d. determine if the consumer's needs require case management services;

e. inform the family of procedural safeguards, rights and grievance/appeal procedure and which includes the following:

(1) determine if the consumer freely accepts case management as optional;

(2) provide the consumer freedom of choice of available targeted case management providers as well as case managers. Advise the consumer of his right to change case management providers and case managers;

(3) provide the consumer freedom of choice of

available service providers. The consumer must sign a standardized intake form to verify the above procedural safeguards;

f. obtain signed release form(s) from the consumer/guardian.

Intake activities performed solely to determine eligibility and need for targeted case management are not billable to Medicaid (unless they are performed as part of the case management assessment process and the consumer meets the eligibility requirements for the target or waiver population.

The above general case management intake procedures are applicable for all targeted and waiver groups. Additional or other procedures for specific targeted or waiver groups are delineated below.

Intake for Infants and Toddlers with Special Needs. *Intake for infants and toddlers with special needs* is defined as a comprehensive interagency multi-disciplinary, ongoing process which ensures that eligible children are appropriately identified, located, referred and evaluated for early intervention services. The child search coordinator in the local education agency is the single point of entry into ChildNet. The child search coordinator is responsible for completion of the following intake procedures:

a. upon receipt of a referral, the child search coordinator must assist the family in identifying and choosing an enrolled family service coordinator provider to assist in the MDE process. Referrals received directly by a family service coordination provider must be immediately referred to the appropriate child search coordinator;

b. the child search coordinator must provide the family freedom of choice to select an enrolled family service coordination provider, and advise the family of the right to change family service coordinator provider agencies, family service coordinators and other service providers;

c. the child search coordinator must advise the family of their procedural safeguards and provide them with a copy of their rights under ChildNet.

Intake for High Risk Pregnant Women. Intake must include a standardized medical risk assessment described in Section E3 above.

Intake for Seriously Mentally Ill. All case management services to seriously mentally ill adults and children are subject to prior authorization by the department including eligibility of the consumer for the target population. The case management provider must submit certain required information including the CAMIS Data Form to enable the regional office to certify that the consumer meets the target population definition. If the consumer does not meet the target population definition, written notification will be sent to the consumer.

Intake for Frail Elderly. Intake procedures for waiver services are described in the appropriate *Waiver Provider Manual*.

2. **Case Management Assessment.** *Assessment* is defined as the process of gathering and integrating formal/professional and informal information concerning a consumer's goals, strengths, and needs to assist in the development of a comprehensive, individualized service plan. The purpose of assessment is to establish a service plan and contract between the case manager and consumer. The

following areas must be addressed in the assessment when relevant: identifying information; medical/physical; psychosocial/ behavioral; developmental/intellectual; socialization/recreational; financial; educational/vocational; family functioning; personal and community support systems; housing/physical environment; and status of other functional areas or domains.

Providers may be required to use standardized assessment instruments for certain targeted populations. The assessment must identify the consumer's strengths, needs and priorities. The assessment must be conducted by the case manager through in-person contact, individualized observations and questions with the consumer and, where appropriate, in consultation with the consumer's family and support network, other professionals, and service providers. The assessment must identify areas where a professional evaluation is necessary to determine appropriate services or interventions. The case manager must arrange for any necessary professional/clinical evaluations needed to clearly define the consumer's specific problem areas. Authorization must be obtained from the consumer/guardian to secure appropriate services.

The assessment must be initiated as soon as possible, preferably within *seven calendar days* of receipt of the referral and must be completed no later than *30 days* after the referral for case management services. A *face-to-face interview* with the consumer is required as part of the assessment process. The initial assessment interview with the consumer must be conducted in the consumer's home to accurately assess the actual living conditions and health and mental status of the consumer unless this is not the consumer's preference or there are genuine concerns regarding safety. If the interview cannot be conducted in the consumer's home, an alternative setting in the consumer's community must be chosen jointly with the consumer and documented in the case record. All assessments must be written, signed, dated, and documented in the case record.

Assessments performed on children in the custody of the Office of Community Services(OCS) or Office of Youth Development(OYD) must actively involve the assigned foster care worker or probation officer and must be approved by the agency with legal custody of the child. Assessments performed on consumers in the custody of the Office of Developmental Disabilities (OCDD) must actively involve the assigned regional office OCDD staff and must be approved by OCDD.

The above general case management assessment procedures are applicable for all targeted and waiver groups. Additional procedures for specific targeted or waiver groups are delineated below:

Assessment for Infants and Toddlers with Special Needs. The child search coordinator is responsible for ensuring all the components of the assessment/multi-disciplinary evaluation (MDE) are fulfilled within the required timeliness. In addition, the child search coordinator must coordinate with the family service coordinator to ensure the development of the initial Individualized Family Service Plan within the required 45 day time lines. The case manager/family service coordinator is responsible for assisting the family through the multi-disciplinary evaluation

process including the following:

- a. informing the family of the steps involved in the MDE process, explaining their rights and procedural safeguards and securing their participation;
- b. reviewing relevant medical information and prior evaluations;
- c. coordinating the performance of identified or necessary evaluations and KIDMED screenings and immunizations and an examination by a licensed physician to ensure timely completion of the MDE and IFSP;
- d. identifying or coordinating the identification of the family's concerns, priorities and resources;

The MDE must include the following:

- a. a review of pertinent records related to the child's current health status and medical history;
- b. results of a KIDMED screening or documented referral for KIDMED screening;
- c. an evaluation of the child's level of functioning in each of the following developmental areas: cognitive development, physical development, including vision and hearing (by a licensed physician or hearing by a licensed audiologist); communication development; social or emotional development; and adaptive development;
- d. an assessment of the child's strengths and needs and the identification of appropriate early intervention services to meet those needs; and
- e. with family consent, the family's identification of their concerns, priorities and resources related to enhancing the development of their child;
- f. be signed and dated by multi-disciplinary team participants.

Assessment of Developmentally Disabled Children Three Years and Older and Adults

a. **Comprehensive Strengths Assessments.** The case manager must complete this standardized strengths assessment form in a face-to-face interview with the consumer. The assessment must identify current status in identified areas of community living, the desired outcomes, as well as strategies which have worked in the past to meet the needs or desired outcomes. The strengths assessment must also include a summary paragraph of the need for case management services, identifying current needs and factors by history which emphasize the need for services.

b. CAMIS Initial Assessment

Assessment for Seriously Mentally Ill. Upon approval of the consumer's eligibility for the target population, the regional office will notify the provider of authorization to submit a completed assessment and service plan. A unique authorization number will be issued to the provider which must be used to bill Medicaid upon completion of the assessment and the service plan. The provider must submit the following properly completed assessment documents and service plan form to the regional office for approval as soon as possible but no later than 30 calendar days from the date of authorization:

a. **Comprehensive Strengths Assessment.** The case manager must complete this standardized strengths assessment form in a face-to-face interview with the consumer. The assessment must identify current status in identified areas of community living, the desired outcomes,

as well as strategies which have worked in the past to meet the needs or desired outcomes. The strengths assessment must also include a summary paragraph of the need for case management services, identifying current needs and factors by history which emphasize the need for services.

b. CAMIS Initial Assessment

Assessment for High Risk Pregnant Women. Assessment of pregnant women is a multi-disciplinary evaluation of the high risk patient to identify factors that may adversely affect health status. Professionals from nursing, nutrition and social work disciplines working as a team must each evaluate the consumer and family needs through interactions and interviews. Each professional assessment must reflect the identified areas for counseling, intervention and follow up services. The nursing, nutritional, and psychosocial assessments must be documented on standardized forms approved by the department. Assessments must be completed within 14 calendar days after the risk assessment is completed or receipt of the referral. There may be extenuating circumstances with certain patients that may hinder compliance with this time frame for assessment.

The case manager is responsible for assisting the family through the multi-disciplinary evaluation process including the following:

- a. coordinating the performance of identified or necessary evaluations to ensure timely completion in preparation for the multi-disciplinary team staffing;
- b. identifying or coordinating the identification of the consumer's concerns, priorities and resources.

A home assessment must be completed by the case manager as part of the initial assessment. If a home visit is refused by the consumer/guardian or there are genuine concerns regarding safety, an alternative setting in the consumer's community may be chosen jointly with the consumer and documented in the case record.

Assessment for Frail Elderly. Assessment procedures for waiver services are described in the appropriate *Waiver Provider Manual*.

3. **Case Management Service Planning.** *Service planning* is defined as the development of a written agreement based upon assessment data (which may be multi-disciplinary), observations and other sources of information which reflect the consumer's needs, capacities and priorities and specifies the services and resources required to meet these needs. The service plan must be developed through a collaborative process involving the consumer, family, case manager, other support systems and appropriate professionals and service providers. It should be developed in the presence of the consumer and, therefore, cannot be completed prior to a meeting with the consumer. The consumer, case manager, support system and appropriate professional personnel must be directly involved and have agreed to assume specific functions and responsibilities.

The service plan must be completed within 45 calendar days of the referral for case management services. The consumer must be informed of his or her right to refuse a service plan after carefully reviewing it. The service plan must be signed and dated by the consumer and the case manager. Although service plans may have different formats, all plans must incorporate all of the following required

components:

- a. statement of prioritized long-range goals (problems or needs) which have been identified in the assessment;
- b. one or more short-term objectives or expected outcomes linked to each goal that is to be addressed in order of priority;
- c. specification of action steps, services or interventions planned, and payment mechanism, if applicable;
- d. assignment of individual responsibility for goal accomplishment; and
- e. time frames for completion or review.

The service plan must document frequency and/or intensity of contacts between the consumer and case manager, service providers and others, the persons to be contacted and whether the visits must be to the consumer's place of residence or to another location, such as a service delivery site. Each service plan must be written and kept in the consumer's record. The assessment and service plan must be completed prior to providing ongoing case management services.

The above general case management service planning procedures are applicable for all targeted and waiver groups. Additional procedures for specific targeted or waiver groups are delineated below.

Service Planning for Infants and Toddlers with Special Needs. The family service coordinator's responsibilities in the Individual Family Service Plan (IFSP) must include all of the following:

- a. convening a meeting to develop the IFSP within 45 calendar days of referral;
- b. attending the IFSP meeting;
- c. ensuring that the IFSP meeting is conducted in settings and at times that are convenient to families; in the native language of the family or other mode of communication used by documentation to the regional office within prescribed time lines in accordance with Office of Mental Health procedures.

Service Planning for Frail Elderly. Service planning procedures for waiver services are described in the appropriate Waiver Provider Manual.

4. **Case Management Linkage.** *Linkage* is defined as the implementation of the service plan involving the arranging for a continuum of both informal and formal services. After obtaining authorization from the consumer, the case manager must contract with the direct service providers or direct the consumer to contact the service providers, as appropriate. The case manager must contract with the consumer for formal and informal services and supports to be arranged. Attempts must be made to meet service needs with informal service providers as much as possible. The responsibilities of the case manager in service coordination are:

- a. translating assessment findings into services;
- b. determining which services and connections are needed;
- c. being aware of community resources (Food Stamps, SSI, Medicaid, etc.);
- d. exploration of both formal and informal services for consumers;
- e. communicating and negotiating with service

providers;

- f. training and support of the consumer in the use of personal and community resources identified in the service plan;
- g. linking consumers through referrals to services that meet their needs as identified in the service plan; and
- h. advocacy on behalf of the consumer to assist them in accessing appropriate benefits or services.

5. **Case Management Follow-Up/Monitoring.** *Follow-up or Case Management Monitoring* is defined as the follow-up mechanism to assure applicability of the service plan. The purpose of monitoring/follow-up contacts made by the case manager is to determine if the services are being delivered as planned, and/or services adequately meet consumer needs and to determine effectiveness of the services and the consumer's satisfaction with them.

The consumer must be contacted within the first 10 working days after the initial service plan is completed to assure appropriateness and adequacy of service delivery. Thereafter, face-to-face follow up visits must be made with the consumer/guardian at least monthly as part of the linkage and monitoring follow-up process, or more frequently as dictated by the service plan or determined by the needs of the consumer/guardian. In addition, visits must be made to consumer's home on a quarterly basis, at a minimum. If the consumer refuses home visits or there are genuine concerns regarding safety, an alternative setting in the consumer's community may be chosen jointly with the consumer.

The case manager must communicate regularly by telephone, in writing and in face-to-face meetings and home visits with the consumer/guardian, professionals and service providers involved in the implementation of the service plan. The nature of these follow-up contacts (i.e. telephone, home visit) and the individuals contacted be determined by the status and needs of the consumer, as identified in the service plan and determined by the case manager.

Through this activity, the case manager must determine whether or not the service plan is effective in meeting the consumer's needs and identify when changes in the consumer's status occur, necessitating a revision in the service plan. Reassessment is required when a major change in status of the consumer/guardian occurs.

Monitoring of services provided includes the following:

- a. following up to assure that the consumer actually received the services as scheduled;

- b. assuring that consumer/consumer's family is able and willing to comply with recommendations of service providers;

- c. measuring progress of consumer in meeting service plan goals and objectives and determining whether the services adequately address the consumer's needs.

Monitoring information must be obtained by the case manager through direct observation and direct feedback. The case manager must gather information from direct service providers for monitoring purposes. The case manager must obtain verbal or written service reports from direct service providers.

The above general case management service planning procedures are applicable for all targeted and waiver

groups. Additional procedures for specific targeted or waiver groups are delineated below.

Follow-Up/Monitoring for High Risk Pregnant Women. The case manager must maintain at least weekly face-to-face or telephone contact with the consumer/guardian, family, informal and/or formal providers to implement the service plan and follow up/ monitoring service provision and the consumer's progress in accordance with the service plan.

Follow-Up/Monitoring for Seriously Mentally Ill. The case manager must have at least weekly face-to-face or telephone contact with the consumer/guardian.

6. **Case Management Reassessment.** *Reassessment* is defined as the process by which the baseline assessment is reviewed. It provides the opportunity to gather information for evaluating and revising the overall service plan. After the initial assessment is completed and initial service plan is implemented, the consumer's needs and progress toward accomplishing the goals listed in the service plan goals must be reevaluated on a routine basis or when a significant change in status or needs occurs. Reassessment is accomplished through interviews and periodic observations.

The purpose of reassessment is to determine if the consumer's condition, situation or needs have significantly changed and to evaluate the effectiveness of the service plan in meeting predetermined goals. If indicated, the identified needs, short-term goals or objectives, services, and/or service providers must be revised. A schedule for reassessing and modifying the initial goals and service plans must be part of the initial workup. Reassessment and review and/or updating of the service plan must be done at intervals of no less than 90 calendar days. If there is a minor change in the service plan, the case manager must revise the plan and initial and date the change. More frequent reassessments may be required, depending upon the consumer's situation.

At least every *six months*, a complete review of the service plan must be done to assure that goals and services are appropriate to the consumer's needs identified in the assessment/reassessment process. A home-based reassessment must be done on at least an *annual* basis unless this is not the consumer's preference or there are genuine concerns regarding safety. If the reassessment cannot be conducted in the consumer's home, an alternative setting in the consumer's community must be chosen jointly with the consumer and documented in the case record.

The above general case management reassessment procedures are applicable for all targeted and waiver groups. Additional procedures for specific targeted or waiver groups are delineated below.

Reassessment for Infants and Toddlers with Special Needs. Ongoing assessment is a component of the IFSP process. A review of the IFSP must be conducted at least every six months, or more often if conditions warrant, or if the family requests a review to determine the following:

- a. the degree to which progress is being made toward achieving the outcomes; and
- b. whether modifications or revisions of the outcomes or services are necessary.

The review may be carried out by a meeting or by other means that is acceptable to the families and other participants.

An annual meeting must be conducted to evaluate the IFSP and, as appropriate, revise the IFSP. The results of any ongoing assessments of the child and family, and any other pertinent information must be used in determining what early intervention services are needed and will be provided.

7. **Case Management Transition/Closure.** Discharge from case management must occur when the consumer no longer needs or desires the services, or becomes ineligible for them. The closure process must ease the transition to other services or care systems. When closure is deemed appropriate, the consumer must be notified immediately so that appropriate arrangements can be made. The case manager must complete a final reassessment identifying any unresolved problems or needs and discussing with the consumer methods of arranging for their own services.

Criteria for closure include but are not limited to the following:

- a. resolution of the consumer's service needs with low probability of recurrence;
- b. consumer requests termination of services;
- c. death;
- d. permanent relocation out of the service area;
- e. long term admission to a hospital, institution or nursing facility;
- f. does not meet the criteria for the case management established by the funding source (e.g., Medicaid or the Program Office);
- g. the consumer requires a level of care beyond that which can safely be provided through case management;
- h. the safety of the case manager is in question; or
- i. noncompliance.

All cases which do not have an active service plan and necessary linkage or monitoring activities must be closed. Infants and toddlers eligible under ChildNet are no longer eligible for Medicaid funded case management services if the only service in the IFSP is case management/family service coordination.

8. **Procedures for Changing Providers.** A consumer may freely change case management providers or case managers or terminate services at any time. DHH maintains a listing of enrolled and approved case management providers for each target and waiver population which consumers and service providers may access for referral purposes. Once the consumer has chosen a new case management provider, the new provider must complete the standardized "Provider Change Notification" form), obtain the consumer's written consent and forward the original change form to the previous case management provider. Upon receipt of the completed form, the previous provider must send copies of the following information as required by licensing standards within 10 working days:

- a. most current service plan;
- b. current assessments on which service plan is based;
- c. number of services used in the calendar year;
- d. current and previous quarter's progress notes.

The new provider must bear the cost of copying which cannot exceed the community's competitive copying rate. The previous provider may not provide case management services after the date the notification is received.

The above general procedures for changing case management providers are applicable for all targeted and waiver groups except as otherwise specified for particular groups delineated below.

Procedures for Changing Family Service Coordination Providers-Infants and Toddlers with Special Needs. If a family chooses to change family service coordination agencies or a change is necessary for any reason, the following procedures will be followed:

a. the family will be referred back to the child search coordinator. This referral can be made by the family, the current family service coordinator, or other service providers;

b. the child search coordinator will provide the family with the official list of family service coordination providers and the freedom of choice form;

c. the child search coordinator will review the family's rights under ChildNet with the family including the right to change family service coordinators or agencies;

d. the child search coordinator or the family, if the family chooses, will notify the newly selected agency;

e. the child search coordinator will notify the old agency at termination;

f. after receiving written informed parental consent, the new agency will request records from the previous agency. The previous agency will make these records available within 10 working days of receipt of the request.

III. General Provisions

A. **Documentation.** The provider must keep sufficient records to document compliance with licensing and Medicaid case management requirements for the target population served and provision of case management services. Separate case management records must be maintained on each consumer which fully document services for which Medicaid payments have been made. The provider must maintain sufficient documentation to enable the Medicaid Program to verify that each charge is due and proper prior to payment. The provider must make available all records which the Medicaid Program finds necessary to determine compliance with any federal or state law, rule, or regulation promulgated by the Medicaid Program, DHH or DHHS or other applicable state agency.

The consumer's case record must consist of the following information, at a minimum:

1. Medicaid eligibility information;
2. documentation verifying that the consumer meets the requirements of the targeted population;
3. a copy of the standardized procedural safeguard form signed by the consumer;
4. copies of any professional evaluations and other reports used to formulate the service plan;
5. case management assessment;
6. progress notes;
7. service logs;
8. copies of correspondence;
9. at least six months of current pertinent information relating to services provided. (Records older than six months may be kept in storage files or folders, but must be available for review.);
10. if the provider is aware that a consumer has been

interdicted, a statement to this effect must be noted.

Service Logs. Service logs are the means for recording units of billable time. There must be case notes corresponding to each recorded time of case management activity. The notes should not be a narrative with every detail of the circumstances. Service logs must reflect service delivered, the "paper trail" for each service billed. Logs must clearly demonstrate allowable services billed. Services billed must clearly be related to the current service plan. Billable activities must be of reasonable duration and must agree with the billing claim. All case notes must be clear as to who was contacted and what allowable case management activity took place. Use of general terms such as "assisted consumer to" and "supported consumer" do not constitute adequate documentation.

Logs must be reviewed by the supervisor to insure that all billable activities are appropriate in terms of the nature and time and documentation is sufficient. Federal requirements for documenting case management claims require the following information must be entered on the service log to provide a clear audit trail:

1. name of consumer;
2. name of provider and person providing the service;
3. names and telephone numbers of persons contacted;
4. start and stop time of service contact and date of service contact;
5. place of service contact;
6. purpose of service contact;
7. content and outcome of service contact.

Progress Notes. Progress notes are the means of summarizing billable activities, observations and progress toward meeting service goals in the case management record. Progress notes must:

1. be clear as to who was contacted and what case management activity took place for each recorded time of case management. It must be clear why that time period was billed;
2. record activities and actions taken, by whom, progress made and indicate how goals in the service plan are progressing;
3. document delivery of each service identified on the service plan;
4. record any changes in the consumer's medical condition, behavior or home situation which may indicate a need for a reassessment and service plan change;
5. be legible, as well as legibly signed, including functional title, and fully dated; and
6. be complete, entered in the record preferably *weekly* but at least *monthly* and signed by the primary case manager.

Progress notes must be recorded more frequently (weekly) when there is frequent activity or significant changes occur in the consumer's service needs and progress. Quarterly progress notes are required in addition to the minimum monthly recording. A summary must also be entered in the consumer's record when a case is transferred or closed.

The organization of individual case management records on consumers and location of documents within the record must conform with state licensing standards and be consistent among records. All entries made by staff in consumer records must be legible, fully dated, legibly signed and

include the functional title of the individual. Any error made by the staff in a consumer's record must be corrected using the legal method which is to draw a line through the erroneous information, write "error" by it and initial the correction. Correction fluid cannot be used in consumer records.

Providers must make all necessary consumer records available to appropriate state and federal personnel at all reasonable times. Providers must always safeguard the confidentiality of consumer information. Under no circumstances should providers allow case management staff to take records home. The case management agency can release confidential information only under the following conditions:

1. by court order; OR
2. by the consumer's written informed consent for release of the information. In cases where the consumer has been declared legally incompetent, the individual to whom the consumer's rights have devolved must provide informed written consent.

Providers must provide reasonable protection of consumer records against loss, damage, destruction, and unauthorized use. Administrative, personnel and consumer records must be retained until records are audited and all audit questions are answered or three years from the date of the last payment, whichever is longer.

B. Reimbursement

1. **General Requirements.** As with all Medicaid services, payment for targeted or waiver case management services is dictated by the nature of the activity and the purpose for which the activity is performed. All case management services billed must be provided by qualified case managers and meet the definition of *case management*—services provided by qualified staff to the targeted or waiver population to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services. This definition encompasses *assisting eligible consumers* in gaining access to needed services including:

- a. identifying services needed;
- b. linking consumer with the most appropriate providers of services; and
- c. monitoring to ensure needed services are received.

Case management does not consist of the provision of other needed services, but is to be used as a *vehicle* to help an eligible consumer gain access to them. A general rule of thumb for providers to follow is if there is no interaction in person, by telephone or in correspondence on behalf of the consumer, it is most likely not a billable case management activity.

2. **Reimbursement Requirements for Infants and Toddlers with Special Needs.**

- a. Candidates for case management services must be Medicaid eligible.
- b. Medicaid eligibles must be certified as a member of the targeted populations by the Medicaid agency or its designee.
- c. The case management service plan is subject to prior authorization by Medicaid agency or its designee.
- d. Providers of case management services are required

to participate in provider training and technical assistance as required by the Medicaid agency or its designee.

C. **Non-billable Activities.** Federal regulations require that the Medicaid Program ensure that payments made to providers do not duplicate payments for the same or similar services furnished by other providers or under other authority as an administrative function or as an integral part of a covered service.

A technical amendment (Public Law 100-617) in 1988 specifies that the Medicaid Program is not required to pay for case management services that are furnished to consumers without charge. This is in keeping with Medicaid's longstanding position as the payer of last resort. With the statutory exceptions of case management services included in Individualized Education Programs (IEPs) or Individualized Family Service Plans (IFSPs) and services furnished through Title V public health agencies, payment for case management services cannot be made when another third party payer is liable, nor may payments be made for services for which no payment liability is incurred.

Time spent in activities which are not a direct part of a contact are not Medicaid reimbursable. Activities that, while they may be necessary, do not result in a service identified in the service plan being provided to the consumer are not reimbursed. The following examples of activities are not considered targeted case management services for Medicaid purposes and are not reimbursable by the Medicaid Program as case management:

1. outreach, case finding or marketing;
2. counseling or any form of therapeutic intervention;
3. developing general community or placement resources or a community resource directory;
4. legislative or general advocacy;
5. professional evaluations;
6. training;
7. providing transportation;
8. telephone calls to a busy number, leaving messages, FAXing or mailing information;
9. travel to a consumer's home for a home visit, and the consumer is not at home so that the visit cannot be held but a note is left;
10. "housekeeping" activities in connection with record keeping. (Recording a contact in the case record at the time service is provided is billable.);
11. in-service training, supervision;
12. discharge planning; EXCEPTION: 10 days (30 days for developmentally disabled waiver participant) before discharge from an inpatient facility to assist the consumer in the transition from inpatient to outpatient status, and 10 days after institutionalization or hospitalization to arrange for closure of community services;
13. intake screening which takes place prior to and is separate from assessment;
14. general administrative, supervisory or clerical activities;
15. record keeping;
16. general interagency coordination;
17. program planning;
18. Medicaid billing or communications with Medicaid

Program;

19. running errands for family (shopping, picking up medication, etc.);
20. accompanying family to appointments or recreational activities, waiting for appointments with family;
21. lengthy interaction to "get acquainted", "provide support" or "hand holding";
22. activities performed by agency staff other than the primary case manager;
23. accompanying another case manager either because of or for safety reasons.

Rose V. Forrest
Secretary

9511#066

DECLARATION OF EMERGENCY

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

Pharmacy Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq., and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but no limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This emergency rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The Department of Health and Hospitals is implementing a copayment on prescription services. The copayment shall be paid by the recipient and collected by the provider at the time the service is rendered. Medicaid reimbursement to the provider shall be adjusted to reflect the copayment amount for which the recipient is liable. In accordance with 42 CFR 447.15, the provider may not deny services to any eligible individual on account of the individual's inability to pay the copayment amount. Under 42 CFR 447.15, this service statement does not apply to an individual who is able to pay nor does an individual's inability to pay eliminate his or her liability for the copayment. States may choose to include a copayment requirement in the pharmacy program under the Medicaid program. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Pharmacy Program by approximately \$5,380,696 for state

fiscal year 1995-1996.

The following emergency rule continues these provisions in force until adoption of the final rule under the Administrative Procedure Act. An emergency rule was initially adopted on July 13, 1995 (*Louisiana Register*, Volume 21, No. 7) and a notice of intent was also published (*Louisiana Register*, Volume 21, No. 9).

Emergency Rule

Effective for dates of service November 9, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing imposes a copayment requirement in the Pharmacy Program based on the following payment schedule:

Calculated State Payment	Copayment
\$10.00 or less	\$0.50
\$10.01 to \$25.00	\$1.00
\$25.01 to \$50.00	\$2.00
\$50.01 or more	\$3.00

The pharmacy provider shall collect a copayment from the Medicaid recipient for each drug dispensed by the provider and covered by Medicaid. The following pharmacy services are exempt from the copayment requirement:

- A. services furnished to individuals under 21 years of age;
- B. services furnished to pregnant women if such services are related to the pregnancy, or to any other medical condition which may complicate the pregnancy;
- C. services furnished to any individual who is an inpatient in a hospital, long term care facility, or other medical institution;
- D. emergency services provided in a hospital, clinic, physician office or other facility equipped to furnish emergency care;
- E. family planning services and supplies;
- F. services furnished by a health maintenance organization in which the individual is enrolled.

In accordance with federal regulations the following provisions apply: the provider may not deny services to any eligible individual on account of the individual's inability to pay the copayment amount. However, this service statement does not apply to an individual who is able to pay, nor does an individual's inability to pay eliminate his or her liability for the copayment. Providers shall not waive the recipient copayment liability. Departmental monitoring and auditing will be conducted to determine provider compliance. Violators of this policy will be subject to a penalty such as suspension from the Medicaid Program. A copy of the rule is available in the parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

9511#078

DECLARATION OF EMERGENCY

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

Professional Services Program—Chiropractic Care

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following emergency rule in the Medical Assistance Program to comply with Louisiana Constitution Article 7, Section 10, R.S. 39:73 and R.S. 77, which require that the secretary not incur obligations or expenditures in excess of the funds appropriated. Act 16, Schedule 9, of the 1995 Louisiana Regular Legislative Session directs: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." The following emergency rule is also adopted as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:953 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule under the Act, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has provided coverage for chiropractic services under the Medicaid Program. Chiropractic services are an optional State Plan service under Title XIX of the Social Security Act which allows a state to choose whether these services are to be included or excluded under its Medicaid State Plan. The 1995-96 General Appropriations Act mandates that the budgetary limit for the Chiropractic Care Program is \$5,406,000. The department has determined that program expenditures are reaching this amount appropriated for this service and it is necessary to suspend coverage for chiropractic services under the State Plan of the Medicaid Program effective December 1, 1995 for persons over 21 years of age. However, the Medicaid Program will continue to cover mandatory medically necessary manual manipulations of the spine for recipients under the age of 21 years of the Early Periodic, Diagnostic and Treatment Program (EPSDT) only when rendered on the basis of a referral from a medical screening provider for the Early Periodic, Screening, Diagnostic and Treatment Program. This action is necessary to avoid a budget deficit in the medical assistance programs. The provisions of the July 13, 1995 emergency rule (*Louisiana Register*, Volume 21 No. 7, 1995) which established provisions governing the reimbursement of chiropractic services will continue in force for dates of services prior to December 1, 1995.

EMERGENCY RULE

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the

following provisions governing the chiropractic care under the Professional Services Program of the Medicaid Program.

I. Effective for dates of service December 1, 1995 and after, the Bureau of Health Services Financing will suspend coverage for chiropractic services under the State Plan.

II. Effective for dates of service December 1, 1995 and after recipients of the Early Periodic, Screening, Diagnostic Treatment Program (EPSDT) will be eligible to receive only mandatory medically necessary manual manipulations of the spine, specifically procedure codes 97260 and 97261. Also, these services may be reimbursed by the Medicaid Program only if provided on the basis of a referral of a medical screening provider of the Early Periodic, Screening, Diagnostic Treatment Program.

III. Effective November 9, 1995 reimbursement for chiropractic dates of service prior to December 1, 1995 shall continue to be reimbursed in accordance with the following requirements.

A. General Provisions

1. Chiropractors' services consist of diagnostic and treatment services which are within the scope of practice for chiropractors under state law and regulations.

2. An encounter is defined as any visit in which any of the services listed in the Professional Services Program Manual are rendered which are included under the selected CPT treatment codes.

3. All chiropractic treatment services for recipients under the age of 21 shall be prior authorized.

B. Service Limits

1. One diagnostic evaluation per 180 days per recipient not to exceed two diagnostic evaluations per calendar year per recipient will be allowed.

2. Radiology services are limited to \$50 per recipient per 180 days not to exceed \$100 per calendar year per recipient.

3. Recipients 21 years of age and older are allowed 18 chiropractic encounters or treatment services per calendar year. No extension of this number shall be granted.

C. Reimbursement

1. Reimbursement is provided to chiropractors who are licensed by the state to provide chiropractic care and services and who are enrolled in the Medicaid Program as an enrolled provider.

2. Reimbursement is made in accordance with the following designated CPT codes under a maximum fee schedule for billable codes established by the Professional Services Program for each chiropractic service rendered to a Medicaid eligible individual.

Procedure Code	Proposed Rate
97010	\$7.41
97012	\$5.31
97014	\$7.41
97020	\$4.88
97022	\$6.65
97024	\$4.88
97026	\$4.88
97028	\$1.66
97039	\$6.65
97110	\$8.08
97112	\$8.08

97032	\$8.08
97122	\$3.85
97124	\$5.05
97034	\$6.65
97035	\$3.85
97139	\$6.65
97036	\$11.09
97250	\$12.94
97260	\$8.00
97261	\$3.54

IV. The Bureau of Health Services Financing will reimburse claims for chiropractic services up to the extent that funds are authorized by legislative appropriation for these services.

Interested persons may submit written comments to the following address: Thomas D. Collins, 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.

A copy of this emergency rule may be obtained from the parish Medicaid office.

Rose V. Forrest
Secretary

9511#094

DECLARATION OF EMERGENCY

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

Professional Services Program—Neonatology Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses neonatology services according to established per diem rates for applicable Current Procedural Terminology (CPT) codes. Effective July 7, 1995 the bureau reduced the per diem rates for the following procedure codes:

CPT code 99295 - \$323.90
CPT code 99296 - \$190.20

CPT code 99297 - \$150.10

CPT code 99297-52 ("step-down" babies) - \$60.04.

The following emergency rule continues this initiative in force until adoption of the rule under the Administrative Procedure Act. A notice of intent on this matter is included within this issue of the *Louisiana Register*.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Professional Services Program by approximately \$7,062,066 for state fiscal 1995-1996.

Emergency Rule

Effective for dates of service of October 28, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reduces the per diem rate for neonatology professional services to the amount listed for the following procedure codes:

CPT code 99295 - \$323.90

CPT code 99296 - \$190.20

CPT code 99297 - \$150.10

CPT code 99297-52 ("step-down" babies) - \$60.04.

Rose V. Forrest
Secretary

9511#009

DECLARATION OF EMERGENCY

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

Rural Health Clinic

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq., and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The Bureau of Health Services Financing reimburses rural health clinic visits and physician visits under the Medicaid Program. Physician visits are limited to 12 medically necessary visits per calendar year for each eligible recipient who is 21 years of age or older. Recipients under the age of 21 are not subjected to program limitations, other than the limitation of medical necessity. The following services have been counted as one of the 12 allowable visits per calendar year for recipients 21 years of age or older:

A. physician office visit including visits to optometrists;

- B. physician home visit;
- C. consultation from another physician when such consultation is essential for the treatment of the recipient's illness;
- D. physician visit in an outpatient hospital setting including emergency room visits due to accidental injury or sudden and serious illness;
- E. physician visit in a nursing home: the physician will sign the recipient's chart at the facility on the day of the visit; and
- F. family planning services for the following:

- 1. initial visit to include a physical examination with pelvic, pap smear and counseling;
- 2. pap smear; and
- 3. insertion and/or removal of an intravenous device.

Rural health clinic visits have not been included in the 12 annual physician visits allowable under the Medicaid Program for recipients 21 or older. The department has now determined it is necessary to include rural health clinic visits under the 12 allowable visits for each recipient 21 years of age or older. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Rural Health Clinic Program by approximately \$250,000 for state fiscal year 1995-1996.

An emergency rule was first adopted effective July 13, 1995 and published in the *Louisiana Register* (Volume 21, No. 7) and a notice of intent was also published in the *Louisiana Register* (Volume 21, No. 9).

Emergency Rule

Effective with dates of service November 9, 1995 and after, each rural health clinic visit, i.e., encounter, is included as one of the 12 physician outpatient visits allowable per year for Medicaid eligibles who are 21 years of age or older.

Rural Health Center visits for prenatal and post partem care are excluded from the maximum allowable number of physician visits per year and are reimbursed on an interim basis in accordance with the physician procedure reimbursement schedule contained in the State Plan and are cost settled. A copy of this rule is available for review by interested parties.

Rose V. Forrest
Secretary

9511#077

DECLARATION OF EMERGENCY

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

Substance Abuse Clinics

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act as directed by the 1995-96

General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses substance abuse clinics for each service performed for a recipient. The bureau revised the program effective July 13, 1995, to allow reimbursement for a maximum of one service per day per recipient. Additionally, effective July 13, 1995, reimbursement for the following services was discontinued: occupational therapy, recreational therapy, music therapy or art therapy. Billing codes for these services are X0146, X0147, X0148 and X0149 respectively. An emergency rule was first adopted effective July 13, 1995 and published in the *Louisiana Register* (Volume 21, Number 7) and a notice of intent was also published in the *Louisiana Register* (Volume 21, Number 9).

The following emergency rule re-adopts the above provisions. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for substance abuse clinics by approximately \$200,000 for state fiscal year 1995-1996.

Emergency Rule

Effective for date of service November 9, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reimburses substance abuse clinics for only one procedure per day per recipient. Occupational therapy, recreational therapy, music therapy, and art therapy are not reimbursable services under the Medicaid Program.

A copy of this emergency rule is available in the Parish Medicaid Offices for review by interested parties.

Rose V. Forrest
Secretary

9511#082

DECLARATION OF EMERGENCY

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

Tuberculosis-Infected Individuals Coverage

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

Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

Section 13603(b) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66) added to the Social Security Act a new optional eligibility group of tuberculosis (TB)-infected individuals and specifies the TB-related services for the treatment of persons infected with tuberculosis. The department has witnessed the existence of a significant statewide increase in the number of cases of active tuberculosis. In order to reduce the number of active treatable cases, to prevent spread of this disease and affect its arrest among infected persons and therefore to protect the public from this imminent peril to their health and welfare; the department has adopted the following emergency rule to add Medicaid coverage for TB-infected individuals in accordance with the Social Security Act. This emergency rule establishes the Medicaid Program's eligibility criteria for TB-infected persons and specifies the services which they may receive under the Medicaid Program. It is anticipated that this emergency rule will increase Medicaid expenditures by approximately \$563,790 for SFY 1996. The following emergency rule continues these provisions in force until adoption of the rule under the Administrative Procedure Act. An emergency rule was initially adopted on August 1, 1995 (*Louisiana Register*, Volume 21, Number 8) and a notice of intent was also published (*Louisiana Register*, Volume 21, Number 10).

Emergency Rule

Effective November 28, 1995 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides Medicaid coverage for specific services to eligible individuals who have been diagnosed as or are suspected of being infected with tuberculosis.

The financial eligibility of these persons will be determined in accordance with the income and resource standards for the Supplemental Security Income eligibility group. These individuals must meet all general nonfinancial requirements or conditions of eligibility for Medicaid coverage including compliance with the application, residency and assignment of rights requirements. Medically needy spend-down provisions are not applicable to this category of eligibles. Medical eligibility is to be determined by the Medical Eligibility Determination Team regarding their status as TB-infective. Medicaid coverage for medical and health services to this new optional group is limited to the following specific services which must be provided for the purpose of treating an individual's tuberculosis infection. Allowable services include services to diagnose and confirm the presence of the infection including physician, pharmacy, laboratory and X-ray, rural health clinics, Federally Qualified Health Centers services, outpatient hospital services, clinic services and directly observed therapy. Coverage for outpatient hospital services, clinic and directly observed therapy services is restricted to outpatients only. Medicaid coverage does not include inpatient hospital or nursing facility services or room and board for the new group of eligibles. Current Medicaid recipients who are or who become TB-infected are eligible to receive the directly observed therapy services on an

outpatient basis for the treatment of their tuberculosis condition.

The reimbursement for physician, pharmacy, laboratory and x-ray, rural health clinics, Federally Qualified Health Centers, outpatient hospital services and clinic services provided to individuals infected with tuberculosis is made according to established regulations and policy for the reimbursement of these services under the Medicaid Program. The reimbursement for the provision of the new service, directly observed therapy is paid as a TB clinic service to the Office of Public Health at a prospective fee for service rate established by the Medicaid Program.

A copy of this rule is available at parish Medicaid offices for review by interested parties.

Rose V. Forrest
Secretary

9511#086

DECLARATION OF EMERGENCY

**Department of Revenue and Taxation
Office of Alcoholic Beverage Control**

Alcoholic Beverage Samplings (LAC 55:VII.317)

Under the authority of R.S. 26:75(C)(2) and R.S. 26:275(B)(2) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Office of Alcoholic Beverage Control, proposes to amend LAC 55:VII.317 to reflect recent amendments to R.S. 26:75 and R.S. 26:275(B)(2).

Act 1081 of the 1995 Regular Legislative Session amended R.S. 26:75 and R.S. 26:275(B)(2) to authorize the sampling of alcoholic beverages at the premises of all Class A and Class B permit holders and to direct the Office of Alcoholic Beverage Control to promulgate rules necessary to regulate these activities. This emergency amendment is necessary to provide for immediate regulation of alcoholic beverage samplings. The effective date of this amendment is November 10, 1995 and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

Title 55

PUBLIC SAFETY

Part VII. Alcoholic Beverage Control

Chapter 3. Liquor Credit Regulations

§317. Regulation Number IX. Prohibition of Certain

Unfair Business Practices in Malt Beverage

Industry

* * *

D. Exceptions

* * *

6. Trade Calls

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b. Except as otherwise provided by law, the gift of beer, wine, or beverage alcohol as a purely social courtesy to unlicensed persons by a manufacturer or wholesaler is not prohibited.

c. Beer or wine sampling for the purposes of allowing a customer to taste a product may be conducted on premises holding a permit as designated in R.S. 26:75(C)(1) in accordance with the following restrictions:

i. A wholesaler and/or manufacturer may furnish the beer, wine, or beverage alcohol to be sampled and the cups to hold such products. The wholesaler and/or manufacturer may also provide and display point-of-sale material in an amount not to exceed \$150 in value. Said display materials shall only be placed inside of the facility and shall not block the aisles or other points of ingress or egress.

ii. No wholesaler or manufacturer shall furnish a sampling of product in a greater quantity than two ounces per type of beverage alcohol to each individual and no individual shall consume more than two ounces of each type of beverage alcohol provided at the sampling. The sampling of a beverage alcohol having an alcoholic content of more than 23 percent by volume shall be limited to one-half ounce per serving per individual.

iii. All samplings shall be limited in duration to one day.

iv. No more than two samplings per brand shall be conducted on the same licensed premises in any month.

v. The wholesaler or manufacturer shall provide the Office of Alcoholic Beverage Control with written notice of the date, time, place, and brands to be sampled at least one week prior to the date of the sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:287, R.S. 26:150(A), R.S. 26:75(C)(2), and R.S. 26:275(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20:671 (June 1994), amended by the Department of Revenue and Taxation, Office of Alcoholic Beverage Control, LR 21:

Terry E. Pitre
Commissioner

9511#056

DECLARATION OF EMERGENCY

Department of Revenue and Taxation
Tax Commission

Ad Valorem Tax (LAC 61:V.Chapters 3-35)

The Louisiana Tax Commission, at its meeting of November 8, 1995, exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, amended real/personal property rules and regulations.

This emergency rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 1996. Cost indices required to finalize these assessment tables are not available to this office

until late October, 1995. The effective date of this emergency rule is January 1, 1996. An identical notice of intent is referenced in this issue of the *Louisiana Register*.

The text of this emergency rule may be obtained at a cost of \$6.25 from the Office of the State Register, 1051 North Third Street, Room 512 Baton Rouge LA. Reference document 9511#059.

Malcolm B. Price, Jr.
Chairman

9511#059

DECLARATION OF EMERGENCY

Department of Treasury
Board of Trustees of the State Employees Group
Benefits Program

Outpatient Prescription Drugs

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby finds that imminent peril to the public welfare exists which requires amendments to the plan document by emergency rule in order to avoid disruption or curtailment of services to state employees and their dependents who are covered by the State Employees Group Benefits Program.

The purpose, intent, and effect of these amendments are to remove the pre-existing condition limitations and coordination of benefits provisions from application to claims for outpatient prescription drugs.

Effective September 29, 1995, the plan document of benefits for the State Employees Group Benefits Program in the following particulars:

Amendment Number One

Article 1, Section II, Subsection D is amended to redesignate paragraph 4 as paragraph 5, and to add a new paragraph, designated as paragraph 4, to read as follows:

4. Eligible outpatient prescription drug claims shall not be subject to any pre-existing condition limitations.

Amendment Number Two

Article 3, Section IX, Subsection B, Paragraph 2 is amended to read as follows:

B. All benefits provided under Article 3, Comprehensive Medical Benefits, except for outpatient prescription drug claims, are subject to coordination of benefits.

This emergency rule shall remain in effect for a maximum of 120 days or until the final rule is promulgated, whichever occurs first.

James R. Plaisance
Executive Director

9511#007

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Drum, Sheephead, Flounder and Other Species Using Pompano Strike Nets (LAC 76:VII.349)

The Wildlife and Fisheries Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to their authority under R.S. 56:6(10), 56:6(25)(a), 56:326.1, 56:326.3, and 56:325.4 as described in Act 1316 of the 1995 Regular Legislative Session, adopts the rule set forth below. This emergency rule is necessary because Act 1316 of the 1995 Regular Legislative Session mandates that the commission establish rules for the implementation of the Louisiana Marine Resources Conservation Act of 1995 for an effective date of August 15, 1995. This emergency rule shall be effective on October 25, 1995, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule. This emergency rule supersedes the declaration of emergency published in the September 1995 *Louisiana Register*.

The Wildlife and Fisheries Commission herein establishes rule and regulations governing the harvest of black drum, flounder, sheepshead and other saltwater finfish (other than red drum, spotted seatrout, and mullet) with pompano strike nets.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§349. Rules for Harvest of Black Drum, Sheepshead, Flounder and Other Saltwater Species using Pompano Strike Nets

A. Drum/Sheepshead Strike Net Permit

1. The commercial taking of black drum, sheepshead and flounder with pompano strike nets is prohibited except by special permit issued by the Department of Wildlife and Fisheries, hereby designated as a Drum/Sheepshead Strike Net Permit. This permit is required in addition to the Pompano Strike Net License required by law.

2. No person shall be issued a Drum/Sheepshead Strike Net Permit unless that person meets all of the following requirements:

a. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

b. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a

certified, audited return to that effect which has been prepared and signed by a certified public accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Tax returns for at least two of the years 1995, 1994 and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following Alternative Method.

c. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

i. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a certified public accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

ii. The Department of Wildlife and Fisheries shall make available the affidavit referred to in number 1 and number 6.

iii. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

iv. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

v. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

vi. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

vii. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

viii. The alternative method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the alternative method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar

years) including the years 1993, 1994 and 1995 exclusively.

ix. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

d. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

e. The applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

3. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any Drum/Sheepshead Strike Net Permit and shall be forever barred from receiving any such permit in the future.

B. Commercial Taking of Saltwater Finfish Using Pompano Strike Nets

1. There shall be two seasons for the commercial harvest of all species of saltwater finfish (other than mullet, spotted seatrout and red drum) with a pompano strike net: the first season shall open on Monday, October 16, 1995, and end with the closure of the mullet strike net season, but no later than March 1, 1996; the second season shall open on Monday, October 21, 1996, and end with the closure of the mullet strike net season, but no later than March 1, 1997. A season for the taking of these species shall be closed prior to the dates listed in this Paragraph if the commercial quota for that species has been taken, or on the date projected by the staff of the Department of Wildlife and Fisheries that a quota will be reached, whichever occurs first. The closure shall not take effect for at least 72 hours after notice to public.

2. During these two seasons the commercial harvest of these species with pompano strike nets shall not be allowed during the period from 5 a.m. on Saturday through 6 p.m. on Sunday. There shall be no commercial taking of these species with pompano strike nets during the period after sunset and before sunrise.

3. The commercial taking of these species by using a pompano strike net in excess of 1200 feet in length is prohibited. Furthermore, use of more than one pompano strike net from any vessel at any time is prohibited, and use of monofilament strike nets is also prohibited.

4. Each pompano strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the Drum/Sheepshead Strike Net Permit number, if applicable. The department shall not issue any tag to a person who does not have a social security number.

5. Each Drum/Sheepshead Strike Net Permit holder shall on or before the 10th of each month file a return to the department on forms provided or approved for the purpose, the pounds of black drum from 16 to 27 inches, the number of black drum over 27 inches, the pounds of sheepshead and

the pounds of flounder taken commercially during the preceding month, the gears used for harvest, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

C. General Provisions. Effective with the closure of a commercial season for black drum, sheepshead, or flounder, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of that species on the waters of the state with pompano strike nets in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of fish legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or 306.

AUTHORITY NOTE: Promulgated in accordance with 56:6(10), 56:6(25)(a); 56:326.1; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:698 (August 1990), amended LR 22:

Perry Gisclair
Chairman

9511#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Buckhorn Wildlife Management Area Deer Hunting

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, the Wildlife and Fisheries Commission hereby adopts the following emergency rule:

1995-96 Hunting Regulations

Buckhorn WMA (Department Owned - 8,955 acres)

The same general regulations, permits, firearms, methods of taking game, camping, restricted areas, dogs and vehicles rules applicable to all other Wildlife Management Areas shall apply. See 1995-96 Hunting Regulations pamphlet, pages 22-29.

Deer: December 30-31, either-sex

January 6-7, either-sex

BOTH HUNTS RESTRICTED TO THOSE PERSONS SELECTED AS A RESULT OF PRE-APPLICATION LOTTERY. Applications must be received with \$5 application fee by November 24, 1995.

Muzzleloader: December 6, 7, 8, either-sex

Unmarked Hogs: May be taken by properly licensed deer hunters while deer hunting.

Squirrel and Rabbit: Same as outside EXCEPT closed during gun hunts for deer.

Woodcock: Same as outside.

Waterfowl: Same as outside EXCEPT closed during gun deer hunts.

Glynn Carver
Vice-Chairman

9511#065

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Fisherman's Assistance Program (LAC 76:XVII.101)

The Wildlife and Fisheries Commission is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 56:13.1.B(1) adopts the rule set forth below. Act 1316 (The Louisiana Marine Resources Conservation Act of 1995) mandates the Department of Wildlife and Fisheries to provide economic assistance to those commercial fishermen who are displaced or severely financially impacted by the loss of the use of commercial fishing nets due to its enactment. Initial promulgation of this rule as a declaration of emergency is necessary because the act establishes a deadline for implementation which predates the earliest date for promulgation of a final rule through nonemergency rulemaking procedures.

This declaration of emergency shall be effective on October 25, 1995, and shall supersede the declaration of emergency published in the September 1995, *Louisiana Register*. The declaration of emergency remains in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule whichever occurs first.

The Wildlife and Fisheries Commission herein establishes procedures for determining proof of income of applicants for economic assistance under R.S. 56:13.1.

Title 76

WILDLIFE AND FISHERIES

Part XVII. Commercial Fisherman's Assistance Program

Chapter 1. Proof of Income

§101. Criteria for Establishing Proof of Income and Procedures

A. An applicant for economic assistance shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the years 1995, 1994, and 1993.

B. 1. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return, including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a certified public accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Said documentation shall be in the form of records which the applicant would rely on to document his return to the Internal Revenue Service. Tax returns for at least two of the years 1995, 1994, and 1993 shall be provided by the applicant. Fishermen applying for

fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following alternative method.

2. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

a. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a Certified Public Accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

b. The Department of Wildlife and Fisheries shall make available the affidavit referred to in number 1 and number 6.

c. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

d. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

e. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

f. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

g. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

h. The alternative method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the alternative method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

i. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife

and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.B(1).

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

Perry Gisclair
Chairman

9511#004

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Mullet Harvest (LAC 76:VII.343)

The Wildlife and Fisheries Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to their authority under R.S. 56:6(25)(a), 56:326.3, and 56:333 as described in Act 1316 of the 1995 Regular Legislative Session, adopts the rule set forth below. This emergency rule is necessary because Act 1316 of the 1995 Regular Legislative Session mandates that the commission establish rules for the implementation of the Louisiana Marine Resources Conservation Act of 1995 for an effective date of August 15, 1995. This emergency rule shall be effective on October 25, 1995, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule. This emergency rule supersedes the declaration of emergency published in the September 1995 *Louisiana Register*.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§343. Rules for Harvest of Mullet

A. Seasons

1. The season for the commercial taking of mullet shall begin at sunrise of the third Monday in October of each year and close at sunset of the third Monday in January of the following year. Mullet may not be taken commercially at any time outside of this season.

2. Commercial harvest of mullet shall not be allowed during the period from 5 a.m. on Saturday through 6 p.m. on Sunday. There shall be no commercial taking of mullet during the period after sunset and before sunrise.

B. Commercial Taking

1. Mullet may only be taken commercially with a mullet strike net, which may not be constructed of monofilament. The commercial taking of mullet by using a mullet strike net

in excess of 1,200 feet or by using more than one mullet strike net from any vessel at any time is prohibited.

2. Each mullet strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take mullet. The department shall not issue any tag to a person who does not have a social security number.

C. Commercial Limits. During the season, there shall be no daily take or possession limit for the commercial harvest of mullet by properly licensed and permitted fishermen.

D. Recreational Limits. The daily take and possession limit for recreational harvest of mullet shall be 100 pounds per person per day.

E. Permits

1. The commercial taking of mullet is prohibited except by special permit issued by the Department of Wildlife and Fisheries at the cost of \$100 for residents of this state and \$400 for those who are nonresidents.

2. No person shall be issued a license or permit for the commercial taking of mullet unless that person meets all of the following requirements:

a. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

b. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a certified public accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Tax returns for at least two of the years 1995, 1994 and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following alternative method.

c. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

i. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a certified public accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

ii. The Department of Wildlife and Fisheries shall

make available the affidavit referred to in number 1 and number 6.

iii. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

iv. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

v. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

vi. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

vii. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

viii. The Alternative Method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the alternative method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

ix. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

d. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

3. No person shall receive more than one permit or license to commercially take mullet.

4. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take mullet and shall be forever barred from receiving any permit or license to commercially take mullet.

5. Each Mullet Permit holder shall, on or before the

10th of each month of the open season, submit an information return to the department on forms provided or approved for this purpose, including the pounds of mullet taken commercially during the preceding month, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

F. General Provisions. Effective with the closure of the commercial season for mullet, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of mullet on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of mullet legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4. and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or 306.

G. In addition, all provisions of R.S. 56:333(C) are hereby adopted and incorporated into this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:325.1, 56:333 and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:333.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1420 (December 1992), amended LR 21:37 (January 1995), LR 22:

Perry Gisclair
Chairman

9511#003

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Net Buy-Back Program (LAC 76:XVII.301)

The Department of Wildlife and Fisheries is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 56:13.1.D. adopts the rule set forth below. This declaration of emergency is necessary because Act 1316 of the 1995 Legislature mandates the Department of Wildlife and Fisheries to adopt this rule. This emergency rule shall be effective on October 25, 1995, and shall supersede the declaration of emergency published in the September 1995 *Louisiana Register*.

It shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule whichever occurs first.

Title 76

WILDLIFE AND FISHERIES

Part XVII. Commercial Fisherman's Assistance Program

Chapter 3. Net Buy-Back Program

§301. Criteria for Qualification; Procedures

A. Until January 1, 1996, the Department of Wildlife and Fisheries shall purchase from qualified persons those commercial fishing nets that have been rendered illegal or useless due to the enactment of the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

B. In order to qualify, persons must have applied for assistance under the Commercial Fisherman's Assistance Program on or before October 1, 1995, and must have met all of the following criteria:

1. must have purchased a saltwater gill net license in at least two of the years 1995, 1994, and 1993;
2. during two of those years shall have derived more than fifty percent of his earned income from the legal capture and sale of seafood species;
3. shall not have been convicted of any fishery-related offense that constitutes a class three or greater violation; and
4. must have been a bona fide resident of Louisiana on June 30, 1995.

C.1. Proof of income shall be provided by the applicant in the form of a copy of his federal tax return, including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. The Department of Wildlife and Fisheries can provide the applicant with the appropriate Internal Revenue Service form to request this. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect prepared and signed by a certified public accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Said documentation shall be in the form of records which the applicant would rely on to document his return to the Internal Revenue Service. Tax returns for at least two of the years 1995, 1994, and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following alternative method.

2. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

a. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a certified public accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

b. The Department of Wildlife and Fisheries shall make available the affidavit referred to in number 1 and number 6.

c. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

d. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

e. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

f. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

g. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

h. The alternative method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the alternative method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

i. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

D. Beginning September 1, 1995, qualified persons desiring to have their nets purchased by the Department of Wildlife and Fisheries may obtain an application form provided by the department from any departmental district office; the completed form shall include all information necessary to assist in the determination of the eligibility status of the applicant. All requested information regarding size, type and number of nets must be provided. The completed form, along with proof of income as described herein, a copy of the applicants Louisiana driver's license, and copies of appropriate saltwater gill net licenses, shall be submitted no later than October 1, 1995, to the Commercial License Section of Wildlife and Fisheries located at 2000 Quail Drive, Baton Rouge, LA or by mail to Box 98000, Baton Rouge, LA 70898. Applicants will be notified by mail as to the disposition of their application.

E. Only those nets that were legal for use in the saltwater areas of this state on June 1, 1995, and only those nets in usable condition, will be eligible for purchase under the provisions of Act 1316 and this Declaration of Emergency.

F. Applicants must have had a gear license issued in their

name for at least one of the years 1995, 1994, or 1993, for the specific type of net(s) being presented for purchase. This is in addition to the requirements for having a saltwater gill net license for two of the three years.

G. Monetary reimbursement for nets to be purchased under this declaration of emergency shall be determined based on the availability of funds collected from the issuance of the Louisiana Marine Resources Conservation Act Stamp. Funds collected through June 30, 1996, will be distributed as follows: 30 percent to the Enforcement Division of the Department in accordance with the Act; and the remaining 70 percent to be made available for the net buy-back portion of the Commercial Fisherman's Assistance Program. Subsequent to June 1996, 70 percent of the revenue collected from the LMRC Stamp will be used for the remainder of the Commercial Fisherman's Assistance Program as defined in Act 1316, R.S. 56:13.1.C.

H. The disbursement of available funds for nets shall be calculated on a pro rata basis to accommodate the number of qualified applicants at a rate not to exceed 50 percent of the average cost of each qualifying net. The following is a schedule of the maximum amount to be paid for each type and size of net based upon 50 percent of the average standard 1995 catalog prices not including sales tax, shipping charges, or options. Actual prices to be paid will be limited by the number of qualifying nets and by the amount of revenue collected.

MESH DEPTH	GILL NETS	SEINES
	PRICE PER FOOT	PRICE PER FOOT
4' - 6'	\$.25	\$.76
over 6' - 8'	\$.30	\$.80
over 8' - 10'	\$.38	\$.87
over 10' - 12'	\$.42	\$.92
over 12' - 14'	\$.44	\$.96
over 14'	\$.53	\$ 1.02

TRAMMEL NETS	
PRICE PER FOOT	
4' - 6'	\$.38
over 6' - 8'	\$.40
over 8' - 10'	\$.43
over 10'	\$.45

FISH TRAWLS	
Complete	\$ 11.22 per foot of trawl width
Trawl only	\$ 6.84 per foot of trawl width

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.D.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Management and Finance, LR 22:

Joe L. Herring
Secretary

9511#005

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Saltwater Commercial Rod and Reel License (LAC 76:VII.405)

The Wildlife and Fisheries Commission is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 56:305.B.(14)(b) adopts the rule set forth below. Initial promulgation of this rule as a declaration of emergency is necessary because Act 1316 (The Louisiana Marine Resources Conservation Act of 1995) mandates the Department of Wildlife and Fisheries to implement the Act effective August 15, 1995.

This Declaration of Emergency is effective October 25, 1995, and shall supersede the Declaration of Emergency published in the September, 1995 *Louisiana Register*. The Declaration of Emergency also remains in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule whichever occurs first.

The Wildlife and Fisheries Commission herein establishes procedures relative to the proof of income of applicants for a saltwater commercial rod and reel gear license.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 4. License and License Fees

§405. Saltwater Commercial Rod and Reel License;

Proof of Income

A. Each applicant shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the three years, 1995, 1994, and 1993.

B.1. Proof of income shall be provided by the applicant in the form of a copy of his federal income tax return, including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service and a copy of his state tax return which has been certified by the Louisiana Department of Revenue and Taxation. In the event that the certified copies of the tax returns, including Schedule C, do not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a certified public accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Said documentation shall be in the form of records which the applicant would rely on to document his return to the Internal Revenue Service. Tax returns for at least two of the years 1995, 1994, and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following alternative method.

2. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit

except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

a. Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a certified public accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

b. The Department of Wildlife and Fisheries shall make available the affidavit referred to in number 1 and number 6.

c. CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

d. The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

e. The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

f. The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

g. The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

h. The alternative method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the alternative method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

i. Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a

fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.D.

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

Perry Gisclair
Chairman

9511#006

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spotted Seatrout Management (LAC 76:VII.341)

The Wildlife and Fisheries Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 49:967(D), and pursuant to their authority under R.S. 56:6(10), 56:6(25)(a), 56:325.3, 56:326.3, and 56:325.3 as described in Act 1316 of the 1995 Regular Legislative Session, adopts the rule set forth below. This emergency rule is necessary because Act 1316 of the 1995 Regular Legislative Session mandates that the commission establish rules for the implementation of the Louisiana Marine Resources Conservation act of 1995 for an effective date of August 15, 1995. This emergency rule shall be effective on October 25, 1995, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule. This emergency rule supersedes the declaration of emergency published in the September 1995 *Louisiana Register*.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

1. The season for the commercial taking of spotted seatrout shall begin at sunrise on the third Monday in November of each year, and close at sunset on May 1 the following year or when the quota has been reached or on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever occurs first.

2. There shall be no commercial taking of spotted seatrout during the period after sunset and before sunrise.

3. The commercial quota for spotted seatrout shall be 1,000,000 pounds for each fishing season.

4. Permits

a. The commercial taking of spotted seatrout is prohibited except by special nontransferable Spotted Seatrout Permit issued by the Department of Wildlife and Fisheries at the cost of \$100 for residents of this state and \$400 for those who are nonresidents.

b. No person shall be issued a license or permit for the commercial taking of spotted seatrout unless that person

meets all of the following requirements:

i. The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

ii. The person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant in the form of a copy of his federal income tax return including Schedule C of federal form 1040, which has been certified by the Internal Revenue Service. In the event that the certified copy of the tax return, including Schedule C, does not confirm the applicant's claim that more than 50 percent of the income was earned from the legal capture and sale of seafood species, the applicant shall provide a certified, audited return to that effect which has been prepared and signed by a certified public accountant (CPA) which includes copies of all documents relied upon by the CPA in preparation of the audit. Tax returns for at least two of the years 1995, 1994 and 1993 shall be provided by the applicant. Fishermen applying for fishing permits which require proof that 50 percent of his income was derived from the legal capture and sale of seafood species may also qualify using the following alternative method.

iii. Alternative Method. Provided a fisherman meets all other qualifications for obtaining a commercial fishing permit except for having a tax return in one of the years 1994 or 1993, he will be allowed to provide proof that 50 percent of his income was derived from the legal capture and sale of seafood species for the current calendar year 1995 along with a 1040 and Schedule C from 1994 or 1993 which meets the qualifying standard. Said proof of the nature and amount of his 1995 income shall be as follows with no exceptions.

(a). Applicant shall submit to the Department of Wildlife and Fisheries an affidavit signed by a certified public accountant (CPA) attesting to the audit of applicant's financial records and applicant's eligibility as defined by Act 1316.

(b). The Department of Wildlife and Fisheries shall make available the affidavit referred to in number 1 and number 6.

(c). CPA's engaged by applicants to prepare financial data shall adhere to generally accepted accounting principals as recognized by the American Institute of Certified Public Accountants (AICPA).

(d). The CPA shall require and accept documentation of applicant's financial transactions in the form normally acceptable to the I.R.S. The record keeping standards required by I.R.S. shall be adhered to in the evaluation of applicant's documentation.

(e). The CPA shall prepare a financial statement depicting and listing separately applicant's total earned income as well as his earned income derived solely from the capture and sale of seafood species. This financial statement shall represent the period beginning January 1, 1995 through September 30, 1995.

(f). The CPA shall provide an unqualified opinion attesting to the nature and amount of the applicant's earned income and whether said income complies with the

requirement that more than 50 percent of the applicant's earned income was derived from the legal capture and sale of seafood species.

(g). The CPA shall provide copies to the Department of Wildlife and Fisheries (Licensing Section) of all financial documents relied upon in support of his unqualified opinion.

(h). The alternative method of fulfilling the earned income requirement shall become obsolete and discontinued on May 1, 1996. Applicants qualifying under the alternative method subsequent to December 31, 1995 shall be allowed to acquire a temporary permit which will be valid only through May 1, 1996. Those applicants receiving a temporary fishing permit valid from January 1, 1996 through May 1, 1996 may reapply for the usual permit at no additional cost, provided said applicant can provide proof of earned income as described in Act 1316 for two 12-month periods (calendar years) including the years 1993, 1994 and 1995 exclusively.

(i). Irrespective of the method used by applicant fishermen to qualify under the 50 percent earned income from the capture and sale of seafood species criteria, each applicant shall make available to the Department of Wildlife and Fisheries (Licensing Section) a certified copy of his Federal Income Tax return, including Schedule C of Federal Form 1040 prior to being issued any additional permits which require the 50 percent earned income test. Currently accepted 1040 and Schedule C Transcripts shall not be sufficient to qualify a permit applicant to renew or acquire a fishing permit beyond the period May 1, 1996. It is incumbent upon each permit applicant to obtain said 1040 and Schedule C information from the Internal Revenue Service.

iv. The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

v. The applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

c. No person shall receive more than one permit or license to commercially take spotted seatrout.

d. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take spotted seatrout and shall be forever barred from receiving any permit or license to commercially take spotted seatrout.

5. Each Spotted Seatrout Permit holder shall, on or before the 10th of each month of the open season, submit an information return to the department on forms provided or approved for this purpose, including the pounds of spotted seatrout taken commercially during the preceding month, and the commercial dealers to whom these were sold, if sold. Monthly reports shall be filed, even if catch or effort is zero.

B. Commercial Taking of Spotted Seatrout Using Mullet Strike Nets, Seasons

1. There shall be two seasons for the commercial harvest of spotted seatrout with a mullet strike net: the first season shall open on Monday, November 20, 1995, and end no later than March 1, 1996; the second season shall open on Monday, November 18, 1996, and end no later than March 1, 1997. Such seasons shall be closed prior to the dates listed in this Paragraph if:

a. 1,000,000 pounds of spotted seatrout have been

taken commercially during a fishing season; or

b. on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever occurs first. The closure shall not take effect for at least 72 hours after notice to the public.

2. During these two seasons the commercial harvest of spotted seatrout with mullet strike nets shall not be allowed during the period from 5 a.m. on Saturday through 6 p.m. on Sunday. There shall be no commercial taking of spotted seatrout during the period after sunset and before sunrise.

3. The commercial taking of spotted seatrout by using a mullet strike net in excess of 1200 feet in length is prohibited. Furthermore, use of more than one mullet strike net from any vessel at any time is prohibited, and use of monofilament strike nets is also prohibited.

4. Each mullet strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take spotted seatrout. The department shall not issue any tag to a person who does not have a social security number.

C. Commercial Taking of Spotted Seatrout Using Other Commercial Gear

1. There shall be no commercial taking of spotted seatrout during the period after sunset and before sunrise.

2. During the 1995-1996 season for harvest of spotted seatrout with a mullet strike net, all other legal methods of harvest may also be used until March 1, 1996. After that date, only commercial rod and reel may be used for the commercial harvest of spotted seatrout, provided that the commercial harvest of spotted seatrout does not exceed the commercial quota.

3. During the 1996-1997 season for commercial harvest of spotted seatrout with a mullet strike net, only a mullet strike net or a commercial rod and reel may be used for the commercial harvest of spotted seatrout provided the commercial harvest of spotted seatrout does not exceed the commercial quota.

4. Following the closure of the 1996-1997 season for the harvest of spotted seatrout with a mullet strike net, only a commercial rod and reel shall be used for the commercial harvest of spotted seatrout, provided the commercial harvest of spotted seatrout does not exceed the commercial quota.

D. General Provisions. Effective with the closure of the commercial season for spotted seatrout, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of spotted seatrout on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of spotted seatrout legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4. and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or 306.

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); 56:325.3; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:

Perry Gisclair
Chairman

9511#002

Rules

RULE

Department of Economic Development Licensing Board for Contractors

Examination (LAC 46:XXIX.Chapter 5)

At its meeting on February 16, 1995, the State Licensing Board for Contractors made a motion which unanimously passed to adopt the following new rules.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXIX. Contractors

Chapter 5. Examination

§513. Cheating

A. Anyone found using unauthorized code books, text books, pagers, beepers, cellular telephones, tape recorders, radio transmitters, portable scanning devices, cameras, portable photocopy machines, reference materials, notes, blank writing or note paper, or any other aid or electronic device not specifically provided by the Examination Section for the purpose of examination administration shall have his or her examination paper confiscated, the exam results invalidated, and shall have his or her name placed on the agenda for the board's next regularly scheduled meeting for consideration and appropriate action. Failure to appear before the board shall result in the imposition of a one-year waiting period before the applicant may retake the examination(s).

B. It is the policy of the board that the specific contents of its examinations are considered to be proprietary and confidential. Anyone found in possession of examination questions, answers, or drawings in whole or in part shall have his or her examination paper confiscated, the exam results invalidated, shall be barred from taking any other examination, and shall not be eligible to become a qualifying party for the licensee for a period of one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150- 2164.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 21: (November 1995).

§515. Examination Scheduling and Rescheduling

A. A candidate may request three dates upon which he or she will be available to take the examination. An attempt will be made to accommodate the candidate. New applicants for licensure will be given priority in scheduling.

B. A candidate shall have until five working days prior to the scheduled examination date in which to cancel the examination. A candidate who fails to make notification before the five-day period or a candidate who fails to appear on the scheduled examination date shall forfeit his or her examination fee and be required to submit a new examination fee before a new examination date will be scheduled. Valid explanations for failing to meet this requirement must be

submitted in writing and will be evaluated on a case-by-case basis.

C. All requests for rescheduling examinations must be submitted in writing.

D. A candidate who fails an examination may schedule a second attempt 30 days or more after the date on which he or she failed the first examination.

E. A candidate who fails an examination a second time may schedule a third attempt 60 days or more after the date on which he or she failed the second examination.

F. A candidate who fails an examination the third time may not schedule another attempt until one calendar year has elapsed from the first time the candidate attempted the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150- 2164.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 21: (November 1995).

§517. Examination Administration Procedures

A. Administrative check-in procedures begin one-half hour before the examinations begin. Candidates must report to the board office for processing at least 15 minutes prior to the examination's starting time. Any candidate reporting after the 15-minute reporting time may not be allowed admittance to the examination room.

B. Personal items (e.g., telephones, pagers, calculators, purses, briefcases, etc.) are to be placed in the front of the testing room or may be secured in a candidate's personal vehicle. A candidate shall not have access to these items during examination administration.

C. A candidate wearing bulky clothing or attire which would facilitate concealment of prohibited materials shall be requested to leave said clothing or attire outside the examination room or to remove it and place it in the front of the examination room. Failure to remove the article shall constitute permission to search for contraband materials, or a cancellation of his or her scheduled examination, at the option of the candidate.

D. All examination activities are subject to being filmed, recorded, or monitored.

E. A candidate taking an examination shall not be allowed access to telephones or other communication devices during the course of the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150- 2164.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 21: (November 1995).

§519. Test Item Challenges

A. A candidate who believes that an individual test item may not have a correct answer or may have more than one correct answer shall be afforded an opportunity to challenge the test item. The candidate shall record his or her comments in writing on a form prepared by the test monitor immediately after the examination. Comments will not be accepted at any other time. Comments should provide a detailed explanation as to why the candidate feels the item is incorrect. General comments (e.g., "This item is wrong.") will not be investigated.

B. Examination comments shall be reviewed. Comments

on test items from examinations developed in-house shall be reviewed in-house. Comments on test items from examinations developed by consultants shall be forwarded to same for review. Candidates shall be notified in a timely manner regarding the validity of their comments.

C. If a test item comment is deemed to be valid, the director of the Applications and Examinations Section shall prepare a memorandum explaining the comment. This memorandum will be reviewed by the Testing and Classification Committee. Only the Testing and Classification Committee shall have the authority to change a grade based upon test item comment(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 21: (November 1995).

§521. Examination Reviews

A. The Business and Law examination may not be reviewed.

B. A candidate may at any time request a breakdown of his or her examination performance based upon the subject content of the examination. Insofar as is possible, the breakdown will provide a candidate with the total number of questions answered incorrectly within a subject area. The candidate will be advised of areas of strength and weakness.

C. A candidate who has failed an examination twice may request in writing a review of his or her failed examinations. A date and time will be established for the review. The candidate who took the examination is the only person allowed to review the examination. No other parties may be present.

D. The review shall consist of a reading of the test items that the candidate answered incorrectly, the possible answer choices, and the answer that the candidate recorded on the answer sheet.

E. No discussions regarding the merits of the candidate's answers, discussions designed to elicit the correct answer, or discussions regarding the merits of the test item are permitted.

F. A candidate participating in an examination review shall not have in his or her possession or on his or her person any electronic recording device, microphone, tape recorder, cellular telephone, camera, radio transmitter, voice-activated tape recorder, portable scanner or photocopier, paper or writing instruments, or any other device designed to record information regarding the incorrectly answered test items.

G. A candidate wearing bulky clothing or attire designed to facilitate concealment of prohibited materials will not be allowed to review his or her examination.

H. Any person seeking relief from any of these rules shall have the option of appearing before the board to present an explanation of the situation whereupon the board may determine the appropriate action. Any person wishing to avail himself or herself of this Section should contact the board administrator to have his request placed on the Agenda for consideration at the next regularly-scheduled board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of

Economic Development, State Licensing Board for Contractors, LR 21: (November 1995).

Joy Evans
Administrator

9511#023

RULE

Department of Economic Development Office of Financial Institutions

Financial Institution Agency Activities (LAC 10:I.501)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:539, the commissioner hereby adopts the following rule to implement the provisions of Act 2448 of 1995 to provide for the establishment and regulation of agency activities by Louisiana state-chartered financial institutions.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part I. Financial Institutions

Chapter 5. Powers

§501. Financial Institution Agency Activities

A. Definitions

Agency Agreement—the document which establishes the agency relationship between the Louisiana state-chartered financial institution and any other financial institution.

Applicant—a Louisiana state-chartered financial institution seeking the prior approval of the commissioner to engage in agency activities as principal or as agent.

Close Loans—the authority to provide loan applications, review documentation, provide loan account information, service loans and receive payments.

Commissioner—the commissioner of Financial Institutions.

Financial Institution—any bank, savings bank, homestead association, building and loan association or savings and loan association.

Notification—consists of all forms prescribed by the commissioner, submitted in a completed form, along with all supporting documents and other information required by this rule.

Receive Deposits—the taking of any additional deposit. This does not include the acceptance of a deposit which will result in the opening of a new deposit account.

B. Notification

1. Filing. All notifications filed in accordance with this rule shall be accompanied by a nonrefundable fee as prescribed by the commissioner and shall be in such form and contain such information as the commissioner may from time to time prescribe. The notification shall be filed at least 30 days prior to the effective date of the agreement. When the notification is submitted, an original and one copy must be provided. The commissioner may approve a substantially complete notification after consideration of the factors set forth in the following sections. A reasonable amount of time may be utilized in the analysis of these factors and additional information may be requested. The prior approval of the

applicant's board of directors is required before filing the notification. Substantially incomplete notifications will not be accepted for filing and will be returned to the applicant resulting in a processing delay.

2. Form. The applicant shall, at least 30 days prior to the effective date of the agency agreement, provide notification to the commissioner which includes:

a. the name, address and phone number of the applicant as well as the name of a contact person to which questions regarding the application and notification may be directed;

b. the name, address and phone number of the financial institution which is entering the agency relationship with the applicant;

c. a description of the services proposed to be performed under the agency agreement including, but not limited to, those permissible activities as enumerated in Subsection C.1;

d. a copy of the agency agreement;

e. evidence that the applicant's bonding company has been notified;

f. a copy of a resolution of the board of directors authorizing the establishment of the agency relationship; and

g. if applicable, a "No Objection Letter" from the appropriate chartering authority for the financial institution providing the agency services for the Louisiana state-chartered financial institution. This provision is only applicable when a Louisiana state-chartered financial institution enters into a relationship with a financial institution in which the out-of-state financial institution will act as agent for the Louisiana state-chartered financial institution.

3. Approval Process. The commissioner may approve any request to establish an agency relationship unless he finds that the proposed operation violates the provisions of this rule or any other pertinent provision of law. The commissioner may, in his sole discretion, provide written reasons for his decision, which shall be released only to the applicant.

C. Activities

1. Permissible Activities. Any Louisiana state-chartered financial institution may, upon compliance with the requirements of this rule:

a. as agent for any financial institution, agree to receive deposits, renew time deposits, close loans, service loans, receive payments on loans and other obligations, and perform other services with the prior approval of the commissioner; and/or

b. enter into an agency relationship with any other financial institution to allow the other financial institution to receive deposits, renew time deposits, close loans, service loans, receive payments on loans and other obligations, and perform other services with the prior approval of the commissioner.

2. Prohibited Activities. A Louisiana state-chartered financial institution, operating under the authority of an agency agreement, may not:

a. conduct any activity as agent that it would be prohibited from conducting as principal under applicable state or federal law;

b. have an agent conduct any activities that the

financial institution as principal would be prohibited from conducting under applicable state or federal law;

c. as agent for another financial institution, make a credit decision on a loan. Only the principal may make the decision to extend credit; or

d. as agent for another financial institution, open a deposit account.

3. Other Activities. If any proposed activity is not specifically designated in Subsection C.1 and has not been previously approved in a regulation issued by the commissioner, the commissioner shall decide whether the performance of such activity would be consistent with applicable state and federal law and the safety and soundness of the Louisiana state-chartered financial institution.

4. Additional Activities

a. If a Louisiana state-chartered financial institution which has an established agency relationship desires to expand its activities to include activities not already approved, the applicant shall notify the commissioner of the change. The notification shall provide a complete description of the proposed new activity and shall also include a copy of the new agency agreement. If only a section of the existing agreement is required to be amended, the institution may submit a copy of the amendment in lieu of the entire agreement. The commissioner shall decide if this activity is consistent with applicable state and federal laws and the safety and soundness of the Louisiana state-chartered financial institution. The financial institution will be given written notice as to the permissibility of the proposed activity by the commissioner.

b. Should a financial institution, as an agent, close loans at a location other than its main office or any branch facility, a loan production office application may be required.

D. Cessation of an Agency Relationship

1. Voluntary Cessation

a. Written notification to the commissioner is required upon the cancellation of an agency relationship.

b. The financial institution shall post a notice at least 30 days prior to the effective date of termination of the financial institution's intention to cease the agency relationship. The notice shall be posted at its main office and at any other location where business was conducted under an agency capacity.

2. Involuntary Cessation. The commissioner may order a Louisiana state-chartered financial institution or any other financial institution subject to the commissioner's enforcement powers to cease acting as agent or principal under any agency agreement with a financial institution that the commissioner finds to be inconsistent with safe and sound banking practices.

E. Other

1. Any request for an exception and/or waiver of any provision of this rule requires the written approval of the commissioner.

2. By no means shall any Louisiana state-chartered financial institution serving as agent for another financial institution be deemed to be a branch of the other financial institution.

3. The commissioner shall impose a fee for this notification in accordance with this office's fees and assessments rule.

4. This rule shall become effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with Act 2448 of 1995.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 21: (November 1995).

Larry L. Murray
Commissioner

9511#017

RULE

Department of Economic Development Office of Financial Institutions

Loan Production Offices (LAC 10:I.309) Repeal LAC 10:XV.1133

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:452, the commissioner hereby repeals the existing rule in LAC 10:XV.1133, General Provisions, regarding the establishment and supervision of financial institution loan production offices and recodify the rule under LAC 10:I.309, Application for Loan Production Office (LPO), to reflect various revisions in the LPO application process.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part I. Financial Institutions (formerly Part I. Banks)

Chapter 3. Applications

§309. Application for Loan Production Office (LPO)

A. Definitions

Applicant—a financial institution seeking a certificate of authority from the commissioner.

Application—shall consist of forms prescribed by the commissioner, submitted in a completed form, along with all supporting documents and other information required by this rule which requests the issuance of a certificate of authority.

Commissioner—the commissioner of Financial Institutions.

Financial Institution—any bank, savings bank, homestead association, building and loan association or savings and loan association.

Letter of Notification—the documents filed by a federally-chartered or out-of-state state-chartered financial institution seeking to establish an in-state loan production office.

Loan Production Office—a physically manned location, other than the financial institution's main office or any branch office, which is subject to the provisions of this rule and whose employees conduct the solicitation and origination of applications for loans, provided that such loans are approved and made at the financial institution's main office or any branch office.

B. Application

1. Filing. All applications and notifications filed in

accordance with this rule shall be accompanied by a nonrefundable fee as prescribed by the commissioner and shall be in such form and contain such information as the commissioner may from time to time prescribe. When application is made, an original and one copy must be submitted. The commissioner may approve a substantially complete application after consideration of the factors put forth in the following sections. A reasonable amount of time may be utilized in analysis of these factors and additional information may be requested when deemed necessary. The applicant must obtain approval from its board of directors prior to the submission of any materials pursuant to an application.

2. Louisiana State-Chartered Financial Institution for In-State Loan Production Office: Factors to be Considered. The following five factors shall be considered within the application as well as any additional factors deemed necessary and appropriate:

- a. financial history and condition;
- b. adequacy of capital;
- c. future earnings prospects;
- d. management;
- e. convenience and needs of the community.

3. Louisiana State-Chartered Financial Institution for an Out-of-State Loan Production Office. In addition to the requirements in Subsection B.2, a Louisiana state-chartered financial institution seeking to establish a loan production office out-of-state shall submit the following:

- a. a "no objection letter" from the appropriate chartering authority of the state in which the loan production office is to be located;
- b. a letter or other evidence of authority from the secretary of state of the state in which the loan production office is to be located, indicating that the applicant is authorized to do business in that state.

4. Out-of-State Financial Institution for an In-state Loan Production Office. An out-of-state financial institution seeking to establish a loan production office in-state must submit the following:

- a. a letter of notification to the commissioner giving the applicant institution's name, address, telephone number and the physical address of the proposed loan production office;
- b. a letter or other evidence of authority from the Louisiana secretary of state's office (if applicable) indicating that the applicant is authorized to do business in this state.

5. In-State Federally-Chartered Financial Institution for an In-State Loan Production Office. An in-state federally-chartered financial institution shall submit a letter of notification to the commissioner giving the applicant institution's name, address, telephone number and the physical address of the proposed loan production office.

6. Approval Process. The commissioner may approve any request to establish a loan production office unless he finds that the proposed operation violates the provisions of this rule or any other pertinent provision of law. The commissioner may, in his sole discretion, assign written reasons for his decision which shall be released only to the applicant.

C. Activities

1. Permissible Activities. A loan production office of a Louisiana state-chartered financial institution is limited to the following activities:

a. soliciting loans on behalf of the financial institution or one of its wholly-owned subsidiaries by any means which discloses the nature and limitations of the loan production office;

b. providing information on loan rates and terms;

c. interviewing and counseling loan applicants regarding loans and any provisions for disclosure required by various regulation;

d. aiding customers in the completion of loan applications including the obtaining of credit investigations, the ordering of title insurance, mortgage certificates, hazard insurance or any other information deemed necessary to insure that the loan application is complete;

e. accepting loan payments;

f. signing or accepting notes, security agreements or other instruments obligating the loan customer to the financial institution; and

g. delivering loan proceeds to the customer so long as the check is written at the financial institution's main office or any branch office and not at the loan production office.

2. Prohibited Activities. A loan production office of a Louisiana state-chartered financial institution is prohibited from conducting or engaging in the following:

a. providing forms which enable the customer to open deposit accounts directly or by mail;

b. counseling customers regarding savings accounts, checking accounts or any other services except loan origination services;

c. advertising, stating or implying that the loan production office provides services other than loan origination services;

d. providing information to a customer concerning the status of the customer's nonloan accounts at the financial institution;

e. charging, or providing for the charging of, interest on loans running from a date prior to the time the proceeds of the loan are actually disbursed to the customer by the financial institution's main office or any branch office;

f. approving loans or making lending decisions. Approval of loans at the main office or any branch office shall be in accordance with safe and sound lending practices, including a review of the credit quality of the loan and a determination that it meets the applicant's credit standards. In making an independent credit decision, the employee at the main office or any branch office may consider recommendations made by the loan production office as a factor when assessing the credit quality of the loan; and

g. operating an electronic financial terminal (EFT) facility within the loan production office.

D. Closure or Change of Location of Loan Production Office

1. The prior written approval of the commissioner is required at least 30 days prior to the closure or change of location of a loan production office of a Louisiana state-chartered financial institution. The notification of a relocation shall contain the current physical address of the loan production office, the proposed new address and the

anticipated date of relocation. Louisiana state-chartered financial institutions shall also furnish the estimated cost of relocation, a statement indicating whether any insiders are involved in the proposed new location and a copy of the proposed lease for the new facilities. The notification of a closure shall include the current location of the loan production office, the reason for the closure and the anticipated date of the closure. This provision may be waived by the commissioner.

2. If the loan production office of a Louisiana state-chartered financial institution participates in the activity of accepting loan payments, all customers of the financial institution must be given reasonable prior notice of the closure of the loan production office. This notification should include an alternative address at which loan payments can be made.

E. Other

1. Periodic Inspection. Upon issuance of a certificate of authority, a loan production office operated by a Louisiana state-chartered financial institution may be subject to periodic inspection by the Office of Financial Institutions to ensure compliance with its rules and regulations concerning loan production office activities. In order to ensure compliance with the rules and regulations concerning loan production office activities, the commissioner may order an inspection of an out-of-state loan production office of a Louisiana state-chartered financial institution. All expenses incurred by this office as a result of the inspection shall be paid in full by the financial institution. Should the operations of a loan production office be found to be in noncompliance under this rule, the commissioner may revoke the loan production office's certificate of authority or take any other measure deemed necessary under his powers pursuant to R.S. 6:121.1 or any other pertinent provisions of law.

2. Emergency Issuance of Certificate of Authority. In the case of the acquisition of a failed or failing financial institution, the commissioner may waive any provision of this rule which is not required by statute for the purpose of issuing a certificate of authority to operate a loan production office by the acquiring institution.

3. Name. Loan production offices of financial institutions shall include the words "loan production office" in their title, official documents, letterhead, advertisements, signs or in any other medium prescribed by the commissioner. The words "loan production office" must be reproduced in at least as large a font size as the name of the financial institution.

4. Sharing of Loan Production Quarters. Loan production quarters may be shared by one or more financial institutions provided that each financial institution complies with the provisions of this rule. In addition, a written agreement between all parties, approved by their respective boards of directors, must be submitted to the commissioner for approval prior to commencement of operations. The agreement should outline the manner in which:

a. the operations of each financial institution will be separately identified and maintained within the loan production quarters;

b. the assets and records will be segregated;

c. expenses will be shared;

d. confidentiality of the financial institution's records will be maintained; and

e. any additional provisions deemed applicable.

5. Any request for an exception and/or waiver of any provision of this rule requires the written approval of the commissioner.

6. The commissioner shall impose a fee for an application or notification made under this rule in accordance with this office's fees and assessments rule.

7. Effective Date. This rule shall become effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with Act 112 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 21: (November 1995).

Part XV. Other Regulated Entities

Chapter 11. Loan Production Offices

Subchapter A. Applications

§1133. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 112 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1095 (October 1994), repealed LR 21: (November 1995).

Larry L. Murray
Commissioner

95011#018

RULE

Department of Economic Development Office of Financial Institutions

Loans Secured by Bank or Bank Holding Company Stock (LAC 10:I.527)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:416(A), the commissioner hereby adopts the following rule to implement the provisions of Act 371 of 1991, to provide for the circumstances under which Louisiana state-chartered banks may make loans secured by their own bank stock or the stock of their parent holding company.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part III. Banks

Chapter 5. Powers of Banks

§527. Loans Secured by Bank or Bank Holding Company Stock

A. Definitions

Bank—Louisiana state-chartered banks and state-chartered savings banks.

Commissioner—the commissioner of Financial Institutions.

Executive Officer—an employee who participates or has authority to participate in major policy-making functions of the bank but does not include a director who is not also employed as an officer of the bank.

Holding Company—any company that directly or indirectly controls a bank.

B. General Provisions

1. If holding company stock is used as collateral, provisions of Section 23A of the Federal Reserve Act may apply. The bank should review this section of the law and ensure compliance with its provisions.

2. The total dollar volume of all loans secured by own bank or holding company stock (hereinafter collectively referred to as "stock"), when aggregated with the total dollar amount of stock acquired for debts previously contracted, shall not exceed 10 percent of the bank's Tier 1 leverage capital. For the purposes of this calculation, any stock held as a result of debts previously contracted shall be valued at fair market value. For a loan which is partially secured by such stock, the amount of the loan to be included in this calculation shall be the loan amount less the collateral value of the nonstock collateral.

3. The bank shall maintain a list of all loans which are secured by its stock. The list shall, at a minimum, contain the borrower's name, the account number of the loan, the original amount of the loan and the certificate number(s) of the shares pledged as collateral.

4. Any loan made to a director or executive officer under the provisions of this rule must be fully disclosed to the bank's board of directors and approved by a majority of the directors in advance, with the interested party not present or participating in the discussion or approval process. Loans made to directors and executive officers under provisions of this rule must be made on substantially the same terms, including interest rates and collateral margins, as those prevailing at the time for comparable transactions by the bank with other persons who are not employed by or associated with the bank. Loans made to directors and executive officers for the purpose of disposition of stock acquired for debts previously contracted must have an adequate, well supported assessment of the stock value documented within the file.

5. Loans secured by a bank's stock made prior to the effective date of R.S. 6:416 A., as amended by Act Number 371 of 1991, effective July 6, 1991, shall not be subject to the requirements of this rule provided:

a. there have been no changes in terms of the loan;

b. no additional funds have been advanced;

c. subsequent renewals were made with full board approval and are fully documented in the board's meeting minutes; and

d. the loan is amortized over a reasonable period.

C. Regulation. A bank may have loans secured by its own stock under any of the following circumstances:

1. The stock is taken as additional collateral on an existing credit in order to minimize potential loss exposure to the bank, provided all of the following conditions are met:

a. the original terms of the loan and its initial collateral margin were consistent with the bank's lending policy;

b. the bank can demonstrate that a loss is probable because the borrower no longer has the ability to perform or collateral protection is inadequate or may soon become inadequate;

c. the taking of the stock as collateral is not used as a means of circumventing other provisions of this rule.

2. The loan is made to facilitate the disposition of stock acquired through debts previously contracted, provided there is no significant deviation from the bank's lending policy with regard to amortization and borrower credit worthiness.

3. The stock of the bank or its holding company is publicly traded by a nationally recognized stock exchange.

D. Other

1. Any exception and/or waiver of any provision of this rule requires the written approval of the commissioner.

2. This rule shall be effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with Act 371 of 1991.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 21: (November 1995).

Larry L. Murray
Commissioner

9511#0019

RULE

**Department of Economic Development
Real Estate Commission**

Fees (LAC 46:LXVII.705)

Notice is hereby given that the Louisiana Real Estate Commission has repealed the following from the existing rules and regulations of the agency: LAC 46:LXVII, Subpart 1, Chapter 7, Fees.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Chapter 7. Fees

§705. Payment of Fees

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and 37:1443.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:397 (October, 1977), amended LR 9:315 (May, 1983), LR 10:874 (November, 1984), LR 11:6 (January, 1985), repealed LR 21: (November 1995).

J. C. Willie
Executive Director

9522#091

RULE

**Department of Economic Development
Real Estate Appraisers Board of Certification**

Fees (LAC 46:LXVII.10101)

Notice is hereby given that the Real Estate Appraisers Board of Certification has amended existing rules and regulations of the agency: LAC 46:LXVII, Subpart 2, Chapter 103, Section 10305, Fees.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LXVII. Real Estate
Subpart 2. Appraisers**

Chapter 103. Certification

§10305. Fees

Payment of Fees. The application will be accompanied by the appropriate fees as specified in R.S. 37:3407.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Subcommittee, LR 15:814 (October 1989), amended by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 21: (November 1995).

J.C. Willie
Executive Director

9511#079

RULE

Board of Elementary and Secondary Education

Bulletin 1934 - Preschool Starting Point (LAC 28:I.906)

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 adopted Bulletin 1934, Starting Points Preschool Program, revised April, 1995. Bulletin 1934 is referenced in the Louisiana Administrative Code, Title 28:I.906 as noted below:

Title 28

EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§906. Early Childhood Programs**

* * *

B. Bulletin 1934, Starting Points Preschool Regulations is adopted, revised April, 1995.

Local Starting Points Preschool Programs will adhere to the developmental philosophy as outlined by the National Association for the Education of Young Children. Developmentally appropriate practices have been proven to be effective in early childhood education. Inherent in this philosophy is the provision of a child-centered program directed toward the development of cognitive, social, emotional, communication and motor skills in a manner and

at a pace consistent with the needs and capabilities of the individual child.

* * *

AUTHORITY NOTE: Promulgated in accordance with 12291 Federal Regulations 45 CFR, Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21: (November 1995).

Starting Points Preschool Program, Bulletin 1934

Introduction

The Department of Social Services, lead agency for the Child Care and Development Block Grant, has allocated 18.75 percent of Louisiana's total child care funds to the Louisiana Department of education for program development under act 658 H. The purpose of Act 658 H is to assist low income families by providing quality early childhood programs.

Program Philosophy

Local Starting Points Preschool Programs will adhere to the developmental philosophy as outlined by the National Association for the Education of Young Children. Developmentally appropriate practices have proven to be effective in early childhood education. Inherent in this philosophy is the provision of a child-centered program directed toward the development of cognitive, social, emotional, communication and motor skills in a manner and at a pace consistent with the needs and capabilities of the individual child.

Eligibility Criteria

In order to qualify for the Starting Points Preschool Program, participants must be

1. one year younger than the age eligible for kindergarten;
 2. residing in a family whose mean income is no more than 75 percent of the state median income for a family of the same size;
 3. at-risk of being insufficiently ready for the regular school program based on screening results
 4. from families who agree to participate in various activities associated with the program;
- from families with both parents (or guardians) involved in one of the following:
- a. attending a job training or education program full-time, or
 - b. working full-time, or
 - c. in job training part-time and working part-time.

Eligibility Definitions

A. Attending (a job training or educational program). To be present for training or educational programs as scheduled except when absent for such reasons as illness or family emergency.

B. Job Training or Educational Program. A program of training to prepare a parent/guardian for gainful employment; at the completion of the training period, or reasonably

thereafter, the participant could reasonably be expected to fully or substantially support the family. The training or educational program can be in any public or private licensed, accredited or recognized educational program which normally requires enrollment or leads to receipt of a high school diploma or equivalency certificate, provided that the institution is legally authorized or recognized by the State.

C. Part-time (job training or educational program). Part time status as determined by the institution.

D. Working. A person who is employed at least 20 hours per week is considered as meeting the requirement to be classified as a working parent/guardian. In the event a parent/guardian becomes unemployed, a brief period (up to 30 days) may be used to accomplish a job search to obtain employment.

E. Family. A basic family unit consisting of one or more adults and their dependent children, whether or not related by blood or law, and residing in or being part of the same household. Children living under the care of individuals not legally responsible for their care are to be considered part of the family.

F. Income. Basic income eligibility would be based on 75 percent of the state median income adjusted for family size. Earned income is used in determining eligibility.

Screening

The screening of children potentially eligible for program participation shall be accomplished through the use of those sections in one or more of the following instruments specifically designed for the identification of high-risk-four-year-olds:

1. Brigance Pre-School Screen for Three and Four-Year-Old Children
2. Developmental Indicators for the Assessment of Learning (DIAL-R)
3. Denver Developmental Screening
4. Early Recognition Intervention Systems (ERISys)
5. Batelle Developmental Inventory - Screening Test
6. LAP-D for Four-Year-Olds

While the test developers may suggest a benchmark score, the local school system shall enroll income-eligible students with the lowest score on the screening assessment.

Income Verification

Parents/guardians of applicants must present one of the following forms of income verification:

1. Two or three check stubs from employer,
2. Notarized statement of earnings from employer.

A copy of the verification must be maintained on file by the local nonpublic school/school system.

Verification should reflect income of parent(s)/guardian(s) at the time school begins.

Employment Verification

Parent (or guardians) must present verification of gainful employment. This verification can be one of the following:

1. Latest check stub,
2. Statement from employer on company letterhead or

notaried, indicating employment and number of hours worked per week.

Verification must be current, indicating that the parent/guardian is employed at the time school begins.

A copy of the verification must be maintained on file by the local school nonpublic school/school system.

Job Training Educational Program Verification

If a parent or guardian is enrolled in a job training or educational program, one of the following forms of verification must be presented:

1. Registration receipts
2. Letter from institution indicating enrollment

A copy of the verification must be maintained on file by the local nonpublic school/school system.

Changes in Eligibility Requirements

The parent(s) (or guardian) must report any changes in their eligibility criteria within ten working days of the change.

In the event the parent/guardian becomes unemployed during the school year, he/she has 30 days to conduct a job search and obtain employment. If employment is not obtained at the end of 30 days, the child is no longer eligible for the Starting Points Preschool Program.

Class Size Limitation

The class assignment of teachers and aides for the program shall be as follows:

Enrollment	Teacher	Aide
10 - 12	1	0
13 - 15	1	½ time
16 - 20	1	1

The class size may not exceed 20 students.

Teacher Qualifications

Each classroom teacher must be certified in one of the following

1. Early childhood education,
2. Nursery school education, or
3. Kindergarten.

Length of School Day and School Year

The length of the school day and the school year shall follow the provisions established in R.S. 17.154.1. The school day that systems operate shall be a full day with a minimum of 330 minutes instructional time per day. Instructional days will be based upon the school calendar of each local nonpublic school/school system with a minimum of 175 days of instruction.

Program Location

Programs will be placed in low-income areas (as determined by the allocation process utilized by the IASA, Title 1 programs) based upon the submission of a proposal and final approval by the Board of Elementary and Secondary Education (BESE). Programs may be placed in both public and approved nonpublic schools which comply with

Brumfield-Dodd.

Health Requirements

All children enrolled in the Starting Points Preschool Program will comply with the immunization requirements as established by the Department of Health and Hospitals. All local nonpublic schools/school systems will administer a vision and hearing screening test to each student.

Curriculum

The curriculum for the Starting Points Preschool Program shall be developmentally appropriate and address all areas of learning: social, emotional, cognitive, and physical.

Yearly Report

Each local nonpublic school/school system will be required to report annually to the Louisiana Department of Education documenting the effectiveness of the program. The nonpublic school/school system must also submit a final budget detailing exactly how the allocated funds were spent.

Monitoring

Programs Managers (supervisors) from the Bureau of Elementary Education will evaluate each program to ensure that program regulations are being met and the developmentally appropriate practices are being implemented. The *Environment Rating Scale* will be the instrument used to measure the effectiveness of the program. Sites will be monitored on a yearly basis until a composite score of 5.0 is attained on the scale. After the first year, programs will be visited and evaluated if

1. a score of 5.0 was not attained the previous year on the *Environment Rating Scale*, or
2. the classroom teacher is new to the program.

Programs that attain a 5.0 will be monitored every other year. Records will be reviewed each year.

Adherence to Regulations

Local nonpublic schools/school systems must adhere to all state and federal regulations. Failure to do so will result in withdrawal of program funds.

Religious Activities

According to the federal regulations for the US Child Care and Development Block Grant, funds provided "under grant or contract may not include sectarian worship or instruction."

AUTHORITY NOTE: Promulgated in accordance with 12291 Federal Regulations 45 CFR, Parts 98 and 99

HISTORICAL NOTE: LR 21: (November 1995).

Carole Wallin
Executive Director

9511#057

RULE

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

**Storage of Volatile Organic Compounds (VOC)
(LAC 33:III.2103)(AQ117)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.2103 (AQ117).

This amendment corrected an error and reworded part of LAC 33:III.2103.D.4. Substantive changes amended LAC 33:III.2103.C and D to add language to clarify closure seal requirements on both internal and external floating roofs. The rule applies to sources in Ascension, East Baton Rouge, Iberville, Livingston, Point Coupee, West Baton Rouge, and Calcasieu Parishes that emit at least 50 tons per year of volatile organic compounds (VOCs).

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

[See Prior Text in A-B]

C. Internal Floating Roof. An internal floating roof consists of a pontoon type roof, double deck type roof or internal floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof edge and tank wall. (In ozone nonattainment areas classified marginal or higher, this closure seal shall consist of either a liquid mounted primary seal, mechanical shoe seal, or two continuous seals mounted one above the other.) All tank gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. Each opening (except rim space vents and automatic bleeder vents) shall be provided with a projection below the liquid surface. In addition, each opening (except for leg sleeves, bleeder vents, rim space vents, column wells, ladder wells, sample wells and stub drains) shall be provided with a cover equipped with a gasket. Automatic bleeder vents and rim space vents shall be gasketed and ladder wells shall be equipped with a sliding cover. This control equipment shall not be permitted if the organic compounds have a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions. If the internal floating roof does not meet the specifications of this rule, for internal floating roofs, then the specifications shall be met at either the first scheduled maintenance turnaround or no later than 10 years after the date of promulgation of this rule. Any extension beyond the 10-year period, after the promulgation date shall be examined on a case-by-case basis and must be approved by the administrative authority*.

D. External Floating Roof. An external floating roof

consists of a pontoon type roof, double deck type roof or external floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof edge and tank wall and a continuous secondary seal (a rim mounted secondary) extending from the floating roof to the tank wall. This closure seal shall consist of a liquid mounted primary seal or a mechanical shoe seal. Installation of the closure seal shall be within the same time limitation as mentioned in Subsection C of this Section.

[See Prior Text in D.1-D.2.e]

3. Requirements for Covering Openings. All openings in the external floating roof, except for automatic bleeder vents, rim space vent, and leg sleeves, are to provide a projection below the liquid surface. The openings must be equipped with a gasketed cover, seal, or lid which must be in a closed position at all times except when the device is in actual use. Automatic bleeder vents must be closed at all times except when the roof is floated off or landed on the roof leg supports. Rim vents must be set to open when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting. Any emergency roof drain must be equipped with a slotted membrane fabric cover or equivalent cover that covers at least 90 percent of the opening.

4. Requirements for Guide Poles and Stilling Well Systems. Emissions from guide pole systems must be controlled for external floating roof storage tanks with a capacity greater than 40,000 gallons (approximately 151 m³) and storing a liquid having a total vapor pressure of 1.5 psia or greater. The description of the method of control and supporting calculations based upon the Addendum to American Petroleum Institute Publication Number 2517 Evaporative Loss from External Floating Roof Tanks (dated May 1994) shall be submitted to the administrative authority for approval prior to installation. Controls for nonslotted guide poles and stilling wells shall include pole wiper and gasketing between the well and sliding cover. Controls for slotted guide poles shall include a float with wiper, pole wiper and gasketing between the well and sliding cover. Alternate methods of controls are acceptable if demonstrated to be equivalent to the controls in this Section. The administrative authority* must approve alternate methods of control. Installation of controls required by this Paragraph shall be required by November 15, 1996. Requests for extension of the November 15, 1996, compliance date will be considered on a case-by-case basis for situations which require the tank to be removed from service to install the controls and must be approved by the administrative authority*. The requirements of this Paragraph shall only apply in ozone nonattainment areas classified marginal or higher. Controls systems required by this Subsection shall be inspected semiannually for rips, tears, visible gaps in the pole or float wiper, and/or missing sliding cover gaskets. Any rips, tears, visible gaps in the pole or float wiper, and/or missing sliding cover gaskets shall be repaired in accordance with this Section in order to avoid noncompliance with this Section. Repairs necessary to be in compliance must be initiated within seven working days of identification by

ordering appropriate parts. Repairs shall be completed within three months of the ordering of the repair parts. However, if it can be demonstrated that additional time for repair is needed, the administrative authority may extend this deadline.

* * *

[See Prior Text in E-I.5]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended, LR 15:1061 (December 1989), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21: (November 1995).

James B. Thompson, III
Assistant Secretary

9511#041

RULE

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

Vehicle Inspection and Maintenance (LAC 33:III.Chapter 19)(AQ116)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.Chapter 19 (AQ116).

Federal law governing air quality, particularly Public Law 101-549 (Clean Air Act Amendments of 1990), mandates the implementation of an enhanced I/M program in serious nonattainment areas.

The Baton Rouge nonattainment area, which includes Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes, has been designated as a serious ozone nonattainment area.

This rule establishes provisions for the implementation of an enhanced vehicle Inspection/Maintenance (I/M) program for the control and abatement of motor vehicle emissions which meets the federal requirements of 40 CFR, Part 51. No vehicle testing is required until January 1, 1999. Provisions necessary to prepare for testing, such as inspection station and inspector certification and fee authority, become effective on January 1, 1998. The program requires emissions testing every other year and repairs for those vehicles which do not meet the standards.

The purpose of this program is to reduce the level of volatile organic compounds (VOCs), and carbon monoxide (CO) emitted by motor vehicles in the Baton Rouge nonattainment area.

These regulations are to become effective upon publication in the *Louisiana Register*.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 19. Mobile Sources Subchapter A. Control of Emissions from Motor Vehicles

§1901. Purpose

It is the purpose of this regulation to establish and implement a program for the control and abatement of motor vehicle emissions from internal combustion engines that meets the emission performance standard as specified in 40 CFR part 51.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1903. Applicability

All provisions and authority of this Subchapter requiring motor vehicle testing shall become effective on January 1, 1999. All other provisions and authority of this Subchapter shall become effective on January 1, 1998.

A. All inspection provisions of this Subchapter shall apply to all motor vehicles manufactured on or after 1968 as defined in LAC 33:III.1905 that are:

1. registered or required to be registered in the parishes of Ascension, Iberville, Livingston, Pointe Coupee, East Baton Rouge, and West Baton Rouge;
2. owned by or operated on federal installations located within the parishes of Ascension, Iberville, Livingston, Pointe Coupee, East Baton Rouge, and West Baton Rouge; or
3. fleet vehicles primarily operated in the parishes of Ascension, Iberville, Livingston, Pointe Coupee, East Baton Rouge, or West Baton Rouge.

B. Provisions of this Subchapter shall apply to owners and operators of subject vehicles or to any private corporation, person, business, or entity engaged in providing emissions inspections, diagnosing motor vehicle malfunctions, or repairing motor vehicles.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1905. Definitions

The terms used in this Subchapter are defined in LAC 33:III.111 of these regulations except as defined as follows:

Algorithm—a mathematical rule or procedure for solving a problem or implementing a process as described in 40 CFR part 51, subpart S and 40 CFR part 85, subpart W, as applicable.

Certificate of Emissions Control (CEC)—a serially-numbered, counterfeit-resistant document issued in the form of a vehicle inspection report (VIR) for each vehicle emissions inspection.

Certified Emissions Inspection Station (certified station)—a facility certified by the administrative authority for the purpose of conducting vehicle emissions inspections.

Certified Emissions Inspector (certified inspector)—a person whom the administrative authority may certify to conduct vehicle emissions inspections.

Consumer Price Index (CPI)—the CPI for any calendar year is the average of the CPI for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending August 31 of each calendar year.

Emissions Inspection—the use of analyzers and diagnostic equipment, as appropriate, and the application of techniques, methods, policies, and procedures established or approved by the administrative authority for the purpose of comparing pollutant emission levels in vehicle exhaust to emission standards.

EPA—United States Environmental Protection Agency.

Exhaust Gas Emissions Standards—the maximum allowable levels of carbon monoxide, hydrocarbons, and oxides of nitrogen appropriate for the age and type of vehicle tested. Refer to LAC 33:III.Chapter 19, Appendix.

Fleet—ten or more motor vehicles that are owned, operated, leased, or otherwise controlled by a person.

Light-duty Truck I (LDTI)—any van or truck with a gross vehicle weight rating (GVWR) less than or equal to 6,000 pounds.

Light-duty Truck II (LDTII)—any van or truck with a gross vehicle weight rating greater than or equal to 6,001 pounds and less than or equal to 8,500 pounds.

Light-duty Truck III (LDTIII)—any van or truck with a gross vehicle weight rating greater than or equal to 8,501 pounds and less than or equal to 10,001 pounds.

Light-duty Vehicle (LDV)—any vehicle classified as a passenger car or automobile.

Minimum Expenditure Waiver—a waiver that may be obtained if repair cost limits are met or exceeded.

Motor Vehicle or Vehicle—any automobile or truck classified as a Light-duty Vehicle, Light-duty Truck I, Light-duty Truck II, or Light-duty Truck III that is required to be registered, except:

- a. motorcycles or mopeds;
- b. mobile equipment such as road rollers, road graders, farm tractors, unlicensed vehicles on which power shovels are mounted, or such other construction equipment customarily used only on construction sites and that is not practical for the transportation of persons or property upon the highways;
- c. fire engines in regular service with a municipal, volunteer, or industrial fire fighting department;
- d. vehicles licensed as "antique" in accordance with R.S. 47:463.8;
- e. trucks or vehicles licensed with a declared gross vehicle weight rating greater than or equal to 10,001 pounds;
- f. vehicles powered only by electricity;
- g. vehicles legally classified as golf carts and off-road vehicles; and
- h. vehicles displaying apportioned license plates.

New Motor Vehicle—any vehicle being registered for the first time.

On-board Diagnostic Systems (OBD)—systems designed to identify emissions-related problems on the vehicle; required for 1995 and newer model year vehicles.

On-road Testing—the measurements of a vehicle's hydrocarbon (HC), carbon monoxide (CO), or oxides of nitrogen (NO_x) emissions taken on any road or roadside.

Operator—any individual in control of a vehicle.

Owner—any person holding legal title to or a lease interest in a motor vehicle.

Person—any individual, firm, partnership, joint venture, association, corporation, social club, fraternal organization, estate, trust, receiver, syndicate, any parish, city, municipality, district (for air pollution control or otherwise) or other political subdivision, or any group or combination acting as a unit and the plural as well as the singular unit.

Recognized Repair Technician—one professionally engaged in vehicle repair, employed by a going concern whose purpose is vehicle repair, or possessing nationally recognized certification for emission-related diagnosis and repair.

Remote Sensing Device—equipment consisting of an infrared beam emitter, a detector, and a microprocessor designed to measure on-road vehicle emissions.

Reregistration—the process of titling a previously titled vehicle.

Subject Vehicle—those motor vehicles meeting the applicability requisites in LAC 33:III.1903.

Year—a calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1907. General Provisions

A. Except as otherwise noted in this Subchapter, all owners of new motor vehicles covered by this Subchapter shall receive a certificate of compliance, waiver, or adjustment prior to the second registration renewal of the motor vehicle.

1. Thereafter, a certificate of compliance, waiver, or adjustment shall be obtained biennially (every two years) for all motor vehicles subject to the requirements of this Subchapter.

2. Vehicles must receive a valid certificate of compliance, waiver, or adjustment not more than 90 days prior to, but not later than, the vehicle registration renewal date.

3. Any person owning or operating any motor vehicle that is exempt from registration renewal and is otherwise subject to this Subchapter shall obtain a biennial certificate of compliance, waiver, or adjustment for the vehicle. Beginning in May of the first program year such vehicles shall receive their initial inspections not sooner than the first day of May and comply not later than July 31 of the inspection year according to the following schedule:

a. odd numbered model year vehicles shall be inspected in odd numbered years; and

b. even numbered model year vehicles shall be inspected in even numbered years.

B. Within 90 days prior to reregistration or title transfer of a previously titled motor vehicle a valid certificate of compliance or adjustment must be obtained in order to reregister or retile the vehicle, unless otherwise noted in Subsection C or D of this Section. Thereafter, a certificate of compliance, waiver, or adjustment shall be obtained biennially for all previously titled motor vehicles subject to the requirements of this Subchapter.

C. Previously titled motor vehicles purchased from a

licensed motor vehicle dealer that are no older than four model years, as determined by the manufacturer's model year designation, shall not require a certificate of compliance, waiver, or adjustment for the purpose of reregistration. The vehicle shall qualify for deferral at the time of reregistration provided that the dealer facilitates motorist awareness and reregistration as follows:

1. the motor vehicle dealer at the time of purchase provides the purchaser with a written statement that the emissions equipment on the motor vehicle was operating in accordance with the manufacturer's and distributor's warranty at the time of resale;

2. the dealer provides the motorist with a statement, in prominent bold print, that the written statement in no way warrants or guarantees that the vehicle complies with the emission standards used in the I/M program required by this Subchapter;

3. the dealer submits the statement required in Subsection C.1 of this Section to the administrative authority within 10 days of the sale. Thereafter, a certificate of compliance, waiver, or adjustment shall be obtained biennially for all motor vehicles subject to the requirements of this Subchapter;

4. the dealer submits to the Louisiana Office of Motor Vehicles documentation for the particular vehicle requesting a dealer deferral that demonstrates compliance with this Subsection. Such documentation shall be necessary before the vehicle may be registered in the name of the new owner.

D. The provisions of this Subsection that require compliance prior to reregistration or title transfer do not apply to:

1. the first transfer of registration or ownership between husband and wife or the transfer to any family member if the transfer is the result of the probate of a will; or

2. companies whose principal business is leasing of vehicles, if there is no change in the lessee or operator of the vehicle.

E. Vehicles shall become subject to on-road testing provisions of this Subchapter upon reregistration or upon registration renewal, whichever occurs first, with the exception of previously titled vehicles registered in accordance with Subsection C of this Section. Vehicles subject to the provisions of Subsection C of this Section shall become subject to on-road testing requirements one year after reregistration.

F. A valid registration sticker must be displayed at all times on the vehicle license plate as a visible demonstration of compliance with this Subchapter.

G. The administrative authority shall notify owners that subject vehicles must comply with this Subchapter prior to registration renewal. Written notification shall be mailed approximately 90 days prior to the vehicle registration renewal date to allow time for compliance. Failure of an owner to receive a notification for an inspection shall in no way lessen or eliminate the responsibility of the owner to comply with the provisions of this Subchapter.

H. In order to receive a certificate of compliance, waiver, or adjustment, an owner or operator must demonstrate compliance with any emissions-related manufacturer's recall for the vehicle requiring a certificate of emissions control.

I. Upon reasonable notice by the administrative authority, a certified station shall make available the use of its inspection facility and equipment for the purpose of verifying the results of an inspection or reinspection of a motor vehicle.

J. All federal facilities located in the program area shall provide the administrative authority with an initial complete listing of all employee-owned or leased vehicles used in the federal facility, as well as all agency-owned or operated vehicles, upon request by the administrative authority. Thereafter, all federal facilities shall annually report any changes in this list for the previous calendar year and demonstrate compliance with the requirements of this Subchapter not later than April 1 of each year. Presentation of proof of a valid certificate of compliance, waiver, or adjustment (or any other form of proof approved by the administrative authority) shall constitute demonstration of compliance.

K. Motor vehicles previously registered in a state other than Louisiana must comply with the inspection provisions of this Subchapter prior to registering in subject parishes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1909. Standards of Performance

A. Exhaust Emission Standards. Vehicles shall be tested for exhaust gas emission levels of carbon monoxide, carbon dioxide, and hydrocarbons. To pass the test and receive a certificate of compliance, a vehicle's emissions must not exceed the standards set in LAC 33:III.Chapter 19, Appendix based on registration information for vehicle type, model year, and weight.

B. Pressure Test. To pass a pressure test, as described in LAC 33:III.1911.C.2, a vehicle must show a pressure drop of less than two inches of water two minutes after the system is pressured to 14 inches of water.

C. Fast-pass/Fast-fail Procedures. Fast-pass or fast-fail procedures may be used as approved by the administrative authority*.

D. Rejection for Cause. If the condition of the vehicle, vehicle contents, load, passengers, or operator causes or has the appearance of causing an unsafe inspection condition when presented for, or during, the inspection, the inspection shall not be performed until the condition is determined to be safe or is corrected. Such conditions include, but are not limited to:

1. fuel leaks in or around the engine area, fuel tank, or lines causing wetness or pooling of fuel;
2. leaking of engine oil, coolant, or other fluids (except for air conditioner condensate);
3. obvious exhaust leak(s), which would prohibit valid sampling;
4. missing or loose tail pipe section(s), which would prohibit proper sampling; and
5. evidence of engine overheating.

E. Visual Inspection. To pass the visual catalytic converter check, such devices shall be present and properly connected.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1911. Emissions Inspection Procedures

Subject vehicles shall be inspected according to test methods found in this Subsection and those in the I/M Procedures Manual.

A. General Inspection Procedure

1. Inspections shall be performed without emissions related repair or adjustment at the certified station prior to the inspection, except that the gas cap shall be checked to ensure that it is properly, but not excessively, tightened and shall be tightened if necessary.

2. The certified station shall not conduct an inspection until the motorist, prior to initiation of an inspection, has been informed of:

a. the approximate wait time expected before commencement of the inspection; and

b. that the certified station is either able or unable to perform emission-related repairs for that particular vehicle should that vehicle fail the inspection.

3. An official inspection, once initiated, shall be performed in its entirety regardless of intermediate outcomes, except in the case of invalid test conditions, unsafe conditions, or fast-pass/fast-fail algorithms.

4. Tests involving measurements shall be performed with equipment approved by the administrative authority that has been calibrated according to the quality control procedures established by the administrative authority*.

5. Dual-fuel vehicles must receive the tail pipe portion of the inspection while operating on gasoline. Dual-fuel vehicles must operate on gasoline for a minimum of 10 minutes prior to inspection.

6. In the inspection process vehicles that have been altered from their original certified configuration are to be tested according to the standards for the chassis model year. The standards for the engine model year shall be used if the engine model is newer than the chassis.

7. The motorist shall provide sufficient vehicle documentation to the emissions inspector for the vehicle to be identified and the vehicle record located in the program data base.

8. The motorist shall allow sufficient access for a certified inspector to conduct the inspection.

9. All media used for the recording and storage of inspection and program data shall become property of the administrative authority.

B. Exhaust Test Procedure. The test procedures shall be a two-speed idle test including a second-chance test as defined in 40 CFR part 51, appendix B to subpart S.

1. The test shall measure vehicle exhaust gas emissions in terms of concentrations for carbon monoxide, carbon dioxide, and hydrocarbons.

2. With the engine operating at idle speed and transmission in neutral or park, as may be specified by the administrative authority, the sampling probe of the gas analytical system shall be inserted into the tail pipe of the vehicle being tested.

3. The vehicle shall be at operational temperature and

the designated preconditioning sequence completed prior to the initiation of the sampling sequence.

4. Alternative procedures may be used if they are shown to be equivalent or better to the satisfaction of the administrative authority*.

C. Pressure Test Procedure

1. Test equipment shall be connected to the fuel tank gas cap. The gas cap shall be checked to ensure that it is properly, but not excessively, tightened and shall be tightened if necessary.

2. The system shall be pressurized to determine the ability of the gas cap to maintain a seal under pressure.

3. Alternative procedures may be used if they are shown to be equivalent or better to the satisfaction of the administrative authority*.

D. Reinspection Procedure: All Vehicles

1. Vehicles that fail any portion of the emissions inspection shall have necessary maintenance and repairs performed as a prerequisite for a reinspection. Vehicles that are brought to a certified station within 30 days after failing an inspection will be given one free reinspection if the reinspection is performed by the certified station performing the initial inspection. If any subsequent inspections are required for that inspection cycle a new initial inspection fee (which includes one free reinspection by the certified station where the previous failure occurred) may be charged.

2. A vehicle repair form (VRF) completed following the most recent emissions inspection shall be a prerequisite for a reinspection or subsequent emissions inspection. It shall indicate which repairs were actually performed, as well as any technician recommended repairs that were not performed, and an identification of the facility that performed the repairs. Identification on the VRF shall include, at a minimum, the technician's signature and printed name, the printed repair facility's name (if applicable), federal employer identification number (EIN) (if applicable) and Louisiana state tax number (if applicable), the repair date, and business telephone number (if applicable). If owner-performed repairs are claimed for waiver purposes the labor rate may not exceed that found in a flat rate manual. The name of the flat rate manual used for labor charges must be supplied along with the parts receipts.

3. Repairs of failed vehicles by persons who are not recognized repair technicians are permitted; however, the cost of such repairs shall not be counted toward a certificate of waiver for any 1980 or newer model vehicle.

4. Following repair vehicles shall be reinspected for any portion of the inspection that was failed on the previous inspection to determine if repairs were effective. A vehicle that fails one or more of the standards for HC or CO must pass both pollutant standards on the reinspection.

5. Available emissions control system warranty repairs and tampering related repairs must be obtained in accordance with LAC 33:III.1917.A.2 and 3.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1913. On-road Testing

A. On-road testing is to be a complement to inspection otherwise required in LAC 33:III.1911.

B. On-road testing may be performed using remote sensing equipment or other equipment approved by the administrative authority or roadside pullovers including tail pipe emission testing. Vehicles shall be measured for exhaust gas emission levels of carbon monoxide and hydrocarbons. The established exhaust emission standards can be found in LAC 33:III.Chapter 19, Appendix.

C. Subject vehicles that are found to exceed the established on-road emission standards for the same pollutant on two different occurrences within a 12-month period shall be notified of the exceedance and required to present the vehicle for an inspection at a certified station and payment thereof, within 30 days of notice unless required cyclic inspection compliance is due within 90 days of the second exceedance. If required cyclic inspection compliance is due the vehicle may receive an inspection not more than 90 days before registration renewal to fulfil both remote sensing and cyclic inspection requirements.

1. Fulfillment of a cyclic inspection requirement cancels any remote sensing exceedances that may have occurred between the last two inspection cycles.

2. Such vehicles requiring an inspection after two remote sensing failures shall be subject to all compliance provisions of this Subchapter; except vehicles not subject to biennial inspection shall not become subject to biennial inspection as a result of on-road testing requirements.

3. Off-cycle remote sensing triggered inspection does not affect the requirements for normal cyclic inspection except as otherwise noted in this Section.

D. Vehicles that received a certificate of waiver or adjustment shall be exempt from the requirements of this Section for the duration of that certificate.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1915. Certificate of Emissions Control (CEC)

A serially-numbered, counterfeit-resistant document in the form of a vehicle inspection report (VIR) shall be issued for each motor vehicle inspection only after inspection or compliance with the requirements of this Subchapter. The CEC shall contain at a minimum: vehicle information, inspection results, an emissions validation tab, and a vehicle repair form (VRF).

A. Security. Measures shall be taken to maintain the security of all certificates and to ensure that compliance documents cannot be stolen or removed without being damaged.

B. Certificate Types. Depending on the results of each inspection, the certificate of emissions control shall be completed in one of four ways:

1. C - certificate of compliance;
2. F - certificate of failure;
3. W - certificate of waiver; or
4. A - certificate of adjustment.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1917. Certificates of Waiver

A certificate of waiver is a type of compliance that allows a motorist to comply with program requirements without meeting the applicable emission test standards, as long as prescribed criteria are met. Certificates of waiver shall be issued by the administrative authority or an authorized representative. A certificate of waiver shall expire on the date of the first registration renewal or title transfer following the issuance of the waiver.

A. Minimum Expenditure Waiver. The following criteria must be met to receive a minimum expenditure waiver:

1. Emissions-related repairs performed prior to an initial inspection shall not be eligible to apply toward a certificate of waiver.

2. Any available emissions control system warranty coverage shall be used to obtain needed repairs before repair expenditures can be counted toward the cost limits in Subsection A.6 of this Section. The operator of a vehicle within the statutory age and mileage coverage under section 207(b) of the Clean Air Act shall present a written denial of warranty coverage from the manufacturer or authorized dealer for this provision to be waived.

3. The cost of tampering-related repairs shall not be applicable to the minimum expenditure in Subsection A.6 of this Section. The administrative authority may exempt tampering-related repairs if the owner or operator can verify that the part in question or one similar to it is no longer available or safe.

4. Repairs shall be appropriate to the cause of the inspection failure. A visual check may be made where appropriate to determine if repairs were actually performed. Receipts shall be submitted to the administrative authority for review to verify that qualifying repairs were performed.

5. Repairs shall be performed by a recognized repair technician in order to qualify for a certificate of waiver. The administrative authority may allow repairs performed by nontechnicians (e.g., owners) to apply toward the waiver limit for pre-1980 model year vehicles.

6. In order to qualify for a minimum expenditure waiver the owner or operator shall make qualified repairs directly related to the cause of the inspection failure in the amount of at least \$100 for 1980 and older vehicles or \$200 for 1981 and newer vehicles.

a. A motorist may apply for a time extension, which allows additional time to procure the necessary repairs for compliance if parts for the required repairs are not available.

b. A time extension is valid for not more than 90 days from the date of registration renewal.

c. A time extension does not exempt a vehicle from the compliance requirements of this Subchapter.

7. A reinspection following the minimum expenditure must be failed.

8. The administrative authority may establish lower minimum expenditure limits if a program is implemented to scrap vehicles that do not meet standards after the lower expenditure is made.

B. Economic Hardship Waiver. A motorist may apply to the administrative authority for a one-time hardship waiver if

the owner of the vehicle cannot meet the minimum expenditure in Subsection A of this Section. A vehicle may qualify for a hardship waiver only once in the lifetime of the vehicle. A hardship waiver is terminated at the following registration renewal date, the time of resale, or any transfer of the vehicle title, whichever is first. A hardship waiver may not be transferred to any person. The owner of a vehicle must notify a prospective purchaser that the vehicle is operating under a hardship waiver prior to the sale of the vehicle. To qualify for a hardship waiver the owner must:

1. have a valid CEC indicating the vehicle failed the initial emissions inspection;
2. provide notarized proof in writing that all income related hardship criteria have been met; and
3. provide any and all information requested by the administrative authority that may be desirable to verify the applicant's qualifications.

C. Vehicles Unavailable for Inspection. Subject vehicles that are stationed outside the program area and cannot be easily returned for inspection when registration renewal is due must present proof of such stationing (military orders, school registration, or other acceptable documentation) to the administrative authority. If the vehicle is stationed in another I/M program area, a reciprocal emissions test is required so that the vehicle complies with the requirements of that area. If the vehicle is not stationed in an I/M program area, the owner may apply for a time extension for renewal. The administrative authority may grant such a time extension, to expire 30 days after the vehicle's return to the program area.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1919. Compliance via Diagnostic Inspection

Subject vehicles may be issued a certificate of adjustment if, after failing a reinspection on emissions, a complete, documented physical and functional diagnosis and inspection, performed by the administrative authority or an authorized representative, shows that no additional emission-related repairs that may produce further reductions in exhaust emissions are needed. Motorists requesting a diagnostic inspection shall be required to pay all costs of the inspection in full.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1921. Certification of Emission Inspection Stations

A. Precertification and Application. An application for a certification to operate a certified station must be filed upon a form supplied by the administrative authority. The applicant must furnish such proof as the administrative authority deems necessary to determine whether the applicant qualifies to operate a certified station. Required proof shall include that he has an established place of business in this state and is capable of meeting the requirements in Subsection A.2 and B of this Section. A CEC can only be issued at a certified station. A certification issued to a station expires at midnight on December 31 of each calendar year or upon any

change in station name, location, ownership, or other legal status.

1. Precertification

a. Prior to construction, installation, or renovation of any facility or building intended for use as a certified station, the owner or operator must have submitted an application and received precertification to operate the facility as a certified station.

b. The administrative authority will investigate each applicant.

2. Certificate to Operate. The administrative authority may issue a station certificate to a person who makes application and demonstrates to the administrative authority's satisfaction that the following minimum conditions will be in effect and equipment will be present at the applicant's proposed certified station:

a. all inspection systems, emission analyzers, equipment, maintenance plans, and contracts shall be approved by the administrative authority in advance of issuing a station certification;

b. approved span gas and compatible equipment for performing gas span checks;

c. suitable nonreactive tail pipe extenders or probe adapters for inspecting vehicles with screened or baffled exhaust systems;

d. sufficient access to the inspection area so the motorist may fully observe the entire inspection process;

e. the owner or operator or an employee of the owner or operator must be a full-time certified emissions inspector;

f. physical requirements:

i. the inspection area shall have a minimum floor area of 12 by 22 feet and be located within a permanent-type building of sound structure having a minimum of two permanent walls and a permanent roof;

ii. tents, sheds, and other makeshift structures shall not qualify for certification;

iii. the facilities shall be large enough to accept all types and sizes of vehicles that are subject to the program; and

iv. the entire floor must be hard surfaced (wood, dirt, or hot-mix floors are not acceptable) and sufficiently level in the same plane so that calibration and accuracy of the inspection equipment is not disrupted by a vehicle's weight or motion;

g. an acceptance test is passed that demonstrates that all inspection, electronic data processing, and other equipment is properly installed and functioning and that the station applying for certification has employed a certified emissions inspector capable of performing emission inspections; and

h. all applicable sections of this Subchapter are fulfilled.

3. Certified Fleet Emission Inspection Station—Certification and Restrictions

a. A certification for a fleet station may be issued to an owner or lessee of a fleet of 10 or more motor vehicles.

b. A fleet station may inspect and certify only those motor vehicles that constitute its fleet of owned or operated vehicles and may issue CECs for those fleet motor vehicles that are sold to the public. However, vehicles owned, titled,

or otherwise possessed for less than six months by the fleet operator may not be inspected or certified for the purpose of resale to the public.

c. A certified fleet station must meet all the requirements applicable to a certified station except:

i. no sign need be displayed and prices need not be posted;

ii. required equipment calibrations shall be performed only on days inspections are to be performed or as required in the I/M procedures manual; and

iii. program information need not be disseminated or displayed except as required in LAC 33:III.1921.B.3.

4. Emissions Inspection-Only. "Emissions Inspection-Only" stations may be authorized by the administrative authority. Such stations shall indicate on a sign authorized by the program and placed in a readily visible location that no emissions related adjustments or repair services are available.

B. Signage and Advertisement

1. Signage

a. A certified station must post in a conspicuous place in the station signs or placards that:

i. display the inspection fee and the hours and days of the week the station is open to perform inspections; at least one such sign, meeting specifications of the administrative authority, must be visible from the middle of the nearest roadway adjacent to the certified station; and

ii. provide information regarding the state's program for the inspection and maintenance of motor vehicles.

b. A certified station shall prominently display two signs stating that "The Vehicle Emissions Inspection/Maintenance Program and Fees are expressly required by the U.S. Environmental Protection Agency and by an Act of Congress."

2. Display. The certified station certification and all other certifications issued to approved inspectors must be displayed in a conspicuous place under glass or other transparent material within the certified station.

3. Advertising

a. No certified station may intentionally publish, display, or circulate any information that is misleading or inaccurate or that misrepresents any of the services rendered or products sold, manufactured, handled, or furnished to the public.

b. No person shall solicit, advertise, or imply that a facility is a certified station, certified by the administrative authority to conduct inspections in accordance with this regulation, without having a current certificate issued by the administrative authority on display on the premises.

c. The administrative authority will provide program information that shall be distributed to the public by a certified station.

C. Performance of Certified Stations. Certified station owners or operators shall be responsible for the general management of their facility or facilities, all emission inspections conducted at their facility or facilities, and for the supervision of their inspectors and repair technicians in accordance with this regulation, the I/M Procedures Manual, and other procedures and policies of the program.

1. A certified station shall obtain and be responsible for routine and unscheduled maintenance or replacement parts for

all emissions inspection equipment used for activities in accordance with this Subchapter.

2. A certified station may not refuse to inspect any vehicle based upon the race, color, religion, sex, national origin or ancestry, age, or physical handicap or disability of the motorist (or any other reason established by the administrative authority), nor may the station refuse any vehicle for inspection because of the make, model, or year of the vehicle.

3. A certified station shall perform initial emissions inspections on vehicles without repair or adjustment prior to the inspection. This does not apply to a vehicle when an owner or driver specifically asks for repairs or adjustments prior to an emissions inspection and a work order is completed and authorized by the vehicle owner or driver. However, such repairs will not count toward the waiver limits set by this Subchapter.

4. The owner or operator of a certified station shall notify the administrative authority and reapply for certification within 30 days of any change of name, legal structure of ownership, operator, or location.

5. Certified stations shall be responsible for all CECs. In the event of a lost or stolen CEC the certified station or his agent shall:

a. notify the administrative authority within 24 hours after a certificate of compliance has been lost or stolen; and

b. allow on the premises of the station any authorized representative of the administrative authority to inspect the station.

6. A certified station shall retain in a secure storage area one hard copy of VRFs from motorists whose vehicles have passed a reinspection and all VIR.

7. Certified stations shall maintain a file of the name, address, and certification number of all currently employed or contracted emissions inspectors and shall provide the file to the administrative authority upon request.

D. Certified Station: Grounds for Denial, Revocation or Suspension of Certification, Reapplication

1. Each of the following acts, omissions, and conditions may constitute a ground for the denial of an application for a certification to operate a certified station or for the revocation or suspension of such a certification:

a. material misstatement on the application;

b. unfitness of the applicant;

c. the applicant's conviction of a felony in the state of Louisiana, any other state, any territory of the United States, or in any other nation; or

d. the applicant's conviction for violating any provision of this Subchapter.

2. The administrative authority may deny or revoke the certification of a facility that does not comply with all applicable federal, state, and local laws and regulations.

3. If no certified inspector is in the employ of a certified station for a period of 30 consecutive days, the certified station must:

a. remove or cover all emissions inspection signs; and

b. surrender its certification as a certified station and all its forms to the administrative authority.

4. The failure of a certified station to comply with a directive of the administrative authority advising him of his

noncompliance with any provision of this Subchapter, inclusive, within 10 days after his receipt of the directive, is prima-facie evidence of his willful failure to comply with the directive.

a. When the certification of a certified station has been suspended for cause, the suspension will be for a period of not less than 90 days. Upon suspension the certification of the certified station must be surrendered to the administrative authority.

b. An applicant may not reapply for a certification after denial, revocation, or suspension by the administrative authority until he has taken an action that removes the ground for denial, revocation, or suspension of an application.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1923. Emissions Inspector Training and Certification

A. Applicability. This Section shall apply to any person working at a certified station or fleet emissions inspection station as an emissions inspector or working as a contracted independent emissions inspector to provide such services. The provisions of this Section apply to both initial certification and any renewals of certifications.

1. No person shall be represented as an emissions inspector without holding valid certification issued by the administrative authority.

2. CECs and VIRs shall be issued only by certified emission inspectors working at certified stations.

3. Requalification for an emissions inspector certification may be required according to Subsection D.3 of this Section.

4. All emissions inspectors shall cooperate with the administrative authority during audits and investigations and provide true and valid information to the best of their knowledge.

5. All emission inspectors' certifications must be posted in a conspicuous place in the certified station of employment.

B. Applications. Completed applications for emissions inspector certifications must be submitted to the administrative authority. The applicant shall provide proof of having received approved training and having passed the written and practical tests. The administrative authority shall have final approval of all training and testing conducted for the purposes of inspector certification.

C. Testing of Applicants. All instructional materials for the emissions inspector training program and the tests shall be approved by the administrative authority. Both the written and practical shall be administered in such a manner as to allow the applicant to demonstrate the ability to conduct a proper inspection, to properly use equipment, and to follow other procedures. The written and practical tests shall be administered by the administrative authority or an authorized representative.

1. **Written Test.** A score of 80 percent is required to pass the written test covering the subjects in Subsection C.1.a-n of this Section. Prior to taking the written test the inspector applicant shall complete a training course covering, at a minimum, the following:

a. impact of automobile emissions on air quality;

b. purpose, function, and goal of inspection program;

c. vehicle emissions and standards set by the administrative authority;

d. rules, regulations, and procedures set forth in the I/M Procedures Manual;

e. public relations;

f. complaint handling;

g. catalytic converter system on all types of vehicles, the purpose and function, configuration, and inspection;

h. operation and proper use, care, maintenance, and calibration of the exhaust gas analyzer equipment approved by the administrative authority;

i. quality control procedures and their purpose;

j. safety and health issues related to the inspection process;

k. proper procedures required to perform an actual emissions inspection from start to finish;

l. general understanding of the benefits to vehicle owners provided in the defect warranty provisions of section 207 (a) and the performance warranty provisions of section 207 (b) of the federal Clean Air Act as it applies to the inspection;

m. proper use of and distribution of inspection forms, certificates of emissions control, and supplemental documents; and

n. inspecting for visible smoke emissions.

2. **Practical Test.** Inability to conduct any portion of the practical test shall constitute a failure of the test. The practical test shall include, but not be limited to:

a. customer contact procedures;

b. vehicle data entry;

c. preparation and positioning of the vehicle and the testing equipment for the inspection;

d. performance of exhaust emissions and pressure tests;

e. performance of the emissions control equipment inspection (tampering check);

f. detachment of emissions inspection equipment from the vehicle;

g. operation of computerized inspection monitoring and recording equipment;

h. provision of inspection results and diagnostic and repair information to the motorists; and

i. calibration and maintenance of all applicable equipment.

D. Expiration and Renewal of Certifications

1. Inspector certifications are valid for two years.

a. As a result of auditing or investigating consumer complaints, a certified inspector may be required to recertify if the administrative authority determines that competency and related problems must be corrected in order to protect the public.

b. The administrative authority will reissue certification to any emission inspector who has requalified to the satisfaction of the administrative authority.

2. In order to maintain a valid certification an emission inspector shall meet the necessary requirements for recertification and apply to renew a certification by filing an application with the administrative authority.

3. **Periodic Requalification.** Recertification shall be

required upon expiration of a certificate or sooner as provided in this Subchapter.

a. If the administrative authority determines a need to update the general qualifications of emission inspectors prior to the expiration of a certificate, holders of such certificates may be required to requalify.

b. A person having an inspector's license who fails to perform an official inspection for a period of more than 12 months shall be deemed to have forfeited the certification and shall be required to reapply.

c. Certifications may be suspended or revoked if the person certified fails to requalify at the request of the administrative authority or according to the schedule approved by the administrative authority.

F. Performance of Certified Inspectors. Every certified inspector shall follow the official procedures of the I/M Procedures Manual and uphold the rules and regulations set forth by the administrative authority and shall:

1. accept all vehicles for emission inspection and perform the emissions inspections in an expedient manner in order to avoid unnecessary public inconvenience. However, an inspector shall not accept any vehicles for inspection if the inspection would pose a threat to any person's safety;

2. at no time during the emissions inspections sequence attempt or allow adjustments to be performed on the vehicle being inspected until the final VIR is complete;

3. sign all certificates of emission control at the time of inspection; and

4. properly use the emissions inspector number and access code usage:

a. the administrative authority shall assign each emissions inspector a unique emissions inspector number and numerical code, known as an access code, to gain access to the analyzer at any certified station;

b. access codes and emissions inspector numbers shall be added and deleted only by administrative authority personnel;

c. an access code shall be used only by the emissions inspector to whom it was assigned. A certified inspector shall at no time allow another person to use his or her certificate or personal access code to enter into an approved exhaust gas analyzer, nor will he or she delegate his or her authority to another person to perform any official inspection or any part of any inspection under his or her name or personal access code;

d. an emissions inspector, by signing and printing his or her name on the CEC, avows that he or she is responsible for, and ensures the accuracy of, the entire inspection pursuant to the CEC signed;

e. certified stations shall report any unauthorized use of an access code to the administrative authority within 24 hours of the discovery of unauthorized use;

f. a certified inspector shall be responsible for any violation or fraudulent inspection that occurs from the misuse of his assigned number or access code.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1925. Quality Assurance

A. An ongoing quality assurance program shall be implemented by the administrative authority to determine whether procedures are being followed, whether equipment is measuring accurately, and whether other problems might exist that would impede program performance.

1. Performance Audits. Performance audits shall be conducted on a regular basis to determine whether inspectors are correctly performing all inspections and other required functions. Performance audits may be either overt or covert. For the purpose of covert audits emissions devices or levels may be temporarily altered.

2. Record Audits. Station and inspector records shall be reviewed or screened at least monthly to assess station performance and identify problems that may indicate potential fraud or incompetence.

3. Equipment Audits. During overt site visits auditors shall conduct quality control evaluations of the required test equipment.

4. Auditor Training. Auditors shall be formally trained and knowledgeable in:

- a. the use of analyzers;
- b. program rules and regulations;
- c. the basics of air pollution control;
- d. basic principles of motor vehicle engine repair related to emission performance;
- e. emissions control systems;
- f. evidence gathering;
- g. state administrative procedures laws;
- h. quality assurance practices; and
- i. covert audit procedures.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1927. Quality Control

A. Each owner of a certified station shall ensure that all equipment used at the certified station is properly calibrated and maintained and that calibration and maintenance records are accurately created, recorded, and maintained.

B. Preventative maintenance as specified by the I/M Procedures Manual shall be performed on all inspection equipment on a periodic basis, not less than one time per month. All manufacturer scheduled and recommended maintenance procedures shall be carried out as required by the manufacturer's maintenance schedule.

C. Computerized analyzers shall automatically record quality control check information, lockouts, attempted tampering, and any other recordable circumstances that should be monitored to ensure quality control, such as those circumstances which require a service technician to work on the equipment. Quality control checks shall be in accordance with the requirements set forth in 40 CFR part 51, appendix A to subpart S.

D. A certified station shall keep attached to its analyzer the manufacturer's quick reference guides on hookup and testing procedures.

E. The person in whose name a certification for a station is issued shall ensure that the operation of the certified station satisfies the operating reliability standards set forth in 40

CFR 51.359 and 40 CFR part 51, appendix A to subpart S. In order to achieve these standards the certified station shall be required to utilize reliable equipment and establish and implement effective ongoing programs of preventive maintenance, spare parts availability, and repair or replacement of defective or worn out equipment.

F. For each vehicle that fails the emissions inspection, the VIR shall include information that advises the motorist of:

1. any known emissions control equipment warranty by the vehicle manufacturer that may be available; and

2. the availability of information regarding emissions repair facility effectiveness.

G. The certified station shall be required to conduct an effective preventive maintenance program, which shall contain the following elements as a minimum:

1. daily calibration checks;

2. periodic recalibrations;

3. periodic cleaning and maintenance of all equipment in accordance with the manufacturer's specifications by checklist;

4. daily visual inspection of equipment by checklist; and

5. recording of maintenance and calibration.

H. The administrative authority may order corrective actions to bring certified stations into compliance with the provisions of this Section. Such action may include, but is not limited to:

1. changes in operating procedures or personnel practices; and/or

2. redesign, repair, or replacement of operating equipment or software.

I. A certified station shall be available at any reasonable time for an audit or investigation by the administrative authority.

J. With reasonable notice a certified station shall be made available during nonworking hours to perform any audit or investigation that the administrative authority deems necessary.

K. Any documentation necessary to enable the administrative authority to perform audits shall be available at all times at each certified station.

L. Any defective condition that would adversely affect the accuracy of testing shall be corrected or testing shall cease until the defective condition is corrected.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1929. Public Information and Consumer Protection

A. Motorists shall be provided with interpretive diagnostic information based on the particular portions of the inspection that were failed, if such information is available from test data.

B. The administrative authority shall provide to the public at the time of initial failure a summary of the performance of local repair facilities that have repaired vehicles for reinspection. The summary shall include statistics on the number of vehicles submitted for a reinspection after repair by the repair facility, the percentage passing on first reinspection, the percentage requiring more than one repair/

reinspection trip before passing, the percentage receiving a certificate of waiver or adjustment, and any other information that would assist a motorist in evaluating repair options.

C. The administrative authority shall annually provide feedback, including statistical and qualitative information, to individual repair facilities regarding their success in repairing failed vehicles.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1931. Enforcement

A. General

1. No person shall violate the provisions of this Subchapter.

2. A person shall not knowingly:

a. make any false material statement, representation, or certification in or omit material information from or knowingly alter, conceal, or fail to file or maintain any document required in accordance with this Subchapter;

b. fail to notify or report as required under this Subchapter;

c. falsify, tamper with, render inaccurate, or fail to install any pollution control device or methods required to be maintained or repaired under this Subchapter; or

d. temporarily adjust or repair a vehicle solely for the purpose of passing or failing an emissions inspection and readjust the vehicle following the passing of an emissions inspection.

3. Failure to comply with the provisions of this Subchapter shall constitute violation of the Louisiana Environmental Quality Act (the Act) and shall be subject to any enforcement action provided thereunder.

4. Penalties for violations shall be assessed in accordance with the Act and any specific provisions in this Subchapter.

5. Compliance with all provisions of this Subchapter must be demonstrated before a violation is considered resolved.

B. Enforcement Against Vehicle Owners or Operators

1. Upon notice of noncompliance with the emission inspection requirements of this Subchapter by the administrative authority, the secretary of the Department of Public Safety and Corrections shall deny, suspend, or revoke the registration of the vehicle and impound or cancel the vehicle's license plate. Registration shall be denied until such time as compliance is demonstrated and any penalties due are paid in full.

2. Any person who fails to obtain the necessary certificate of compliance, waiver, or adjustment within the time limits provided in this Subchapter shall be assessed a civil penalty of a minimum of \$50 and not more than \$2500.

C. Enforcement Against Certified Stations and Inspectors. For the purposes of this Subsection violations shall be categorized as major or minor violations.

1. Major Violations

a. A major violation is a violation of this Subchapter that directly affects the emission reduction benefits of the emissions inspection program. These violations include, but are not limited to, the following actions:

- i. falsification of CECs;
- ii. selling CECs other than as a result of an emissions inspection;
- iii. performance of emissions inspections or issuance of CECs by persons other than certified emissions inspectors; or
- iv. tampering with or circumvention of function of testing equipment.

b. Penalties for Major Violations by Certified Stations

- i. For a first major violation by a certified station, the administrative authority shall assess a penalty of not less than \$250 and shall require retraining, if applicable.
- ii. For a second or third major violation by a certified station, the administrative authority shall assess a penalty of not less than \$500 and shall suspend the station certification for not less than 90 days.
- iii. For a fourth or subsequent major violation by a certified station, the administrative authority shall revoke the station certification for not less than one year.

c. Penalties for Major Violations by Certified Inspectors

- i. For a first major violation by a certified inspector, the administrative authority shall assess a penalty of not less than \$125 and shall require retraining. The administrative authority may suspend the inspector's certification for not less than 90 days.
- ii. For a second or third major violation by a certified inspector, the administrative authority shall assess a penalty of not less than \$250 and shall suspend the inspector's certification for not less than six months.
- iii. For a fourth or subsequent major violation by a certified inspector, the administrative authority shall revoke the inspector's certification for not less than one year.

2. Minor Violations

a. A minor violation is a violation of this Subchapter that reflects negligence or carelessness in conducting an emissions inspection or complying with the emissions inspection requirements but does not directly affect the emission reduction benefits of the emissions inspection program. These violations include, but are not limited to, the following actions:

- i. failure to follow procedural requirements; or
- ii. failure to maintain records in accordance with program requirements.

b. Penalties for Minor Violations by Certified Stations

- i. For a first minor violation by a certified station, the administrative authority shall issue a formal letter of warning.
- ii. For a second or third minor violation by a certified station, the administrative authority shall assess a penalty of not less than \$125.
- iii. For a fourth or subsequent minor violation by a certified station, the administrative authority shall assess a penalty of not less than \$250 and may suspend the station certification for not less than 30 days.

c. Penalties for Minor Violations by Certified Inspectors

- i. For a first minor violation by a certified inspector, the administrative authority shall issue a formal letter of warning.

ii. For a second or third minor violation by a certified inspector, the administrative authority shall assess a penalty of not less than \$75 and may require retraining.

iii. For a fourth or subsequent minor violation by a certified inspector, the administrative authority shall assess a penalty of not less than \$150 and may suspend the inspector's certification for not less than 30 days.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1933. Test Fees and Surcharges

A fee shall be collected by the administrative authority or an authorized representative for the inspection.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

§1935. Miscellaneous

If any provision of this Subchapter or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or application of any other part of this Subchapter. To this end each provision of this Subchapter, and the various applications thereof, are declared to be severable.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

APPENDIX

A. Idle Test Cutpoints for Bar90

1. Start-up Standards

a. Light-duty Vehicles (any passenger car or automobile):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1994 + Tier I	220	3
1980 + non Tier I	400	4 (1980 - 6%)
1975-1979	800	8
1972-1974	1100	12
1970-1971	1200	12
1968-1969	1400	13

b. Light-duty Trucks I (less than or equal to 6000 pounds GVWR):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1994 + Tier I	220	3
1984 + non Tier I	400	4
1979-1983	850	10
1975-1978	950	11
1972-1974	1200	12
1970-1971	1300	12
1968-1969	1400	13

c. Light-duty Trucks II (greater than or equal to 6,001 and less than or equal to 8,500 pounds GVWR):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1994 + Tier I	220	3
1984 + non Tier I	400	4
1979-1983	850	10
1975-1978	950	11
1972-1974	1200	12
1970-1971	1300	12
1968-1969	1400	13

d. Light-duty Trucks III (greater than or equal to 8,501 and less than or equal to 10,000 pounds GVWR):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1994 + Tier I	220	3
1984 + non Tier I	400	4
1979-1983	850	10
1975-1978	950	11
1972-1974	1200	12
1970-1971	1300	12
1968-1969	1400	13

2. Final Standards

a. Light-duty Vehicles (any passenger car or automobile):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1994 + Tier I	100	1
1981 + non Tier I	220	1.2
1980	300	3
1975-1979	600	6
1972-1974	700	8
1970-1971	800	9
1968-1969	1000	11

b. Light-duty Trucks I (less than or equal to 6000 pounds GVWR):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1994 + Tier I	220	1.2
1984 + non Tier I	300	1.5
1979-1983	500	6
1975-1978	650	7
1972-1974	750	9
1970-1971	850	9
1968-1969	1150	11

c. Light-duty Trucks II (greater than or equal to 6,001 and less than or equal to 8,500 pounds GVWR):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1994 + Tier I	220	1.2
1984 + non Tier I	300	1.5
1979-1983	500	6
1975-1978	650	7
1972-1974	750	9
1970-1971	850	9
1968-1969	1150	11

d. Light-duty Trucks III (greater than or equal to 8,501 and less than or equal to 10,000 pounds GVWR):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1994 + Tier I	220	1.2
1984 + non Tier I	300	2
1979-1983	500	6
1975-1978	650	7
1972-1974	750	9
1970-1971	850	9
1968-1969	1150	11

B. On-road Testing. Remote sensing identification standards:

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
All Vehicles	1400	12

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (November 1995).

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§223. Fee Schedule Listing

[See Prior Text in Fee Schedule Listing Table]

ADDITIONAL PERMIT FEES AND ADVF FEES		
Fee Number	Fee Description	Amount
*** [See Prior Text in Fee Number 2000-2400]		
2500- *NOTE 18*	Biennial Mobile Sources Enhanced Inspection Maintenance Fee	
	Biennial enhanced inspection maintenance motor vehicle emissions test if federal funds are available	\$10
	Biennial enhanced inspection maintenance motor vehicle emissions test fee if federal funds are not available	\$20
2520	Certification fee	
	Emissions inspector	\$50
	Emissions inspection station	\$200
*** [See Prior Text in Fee Numbers 2600-2810]		

Explanatory Notes for Fee Schedule

[See Prior Text in Note 1 through 17]

NOTE 18 A biennial emissions inspection fee for vehicles that are registered or required to be registered in any affected parish with a population of greater than 200,000. A program emission inspection fee not to exceed \$10 per vehicle inspected may be imposed if Intermodal Surface Transportation Efficiency Act funds are available for the purpose; to the extent such funds are not available a fee not to exceed \$20 per vehicle inspected may be imposed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear

Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, LR 17:1205 (December, 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1419 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21: (November 1995).

James B. Thompson, III
Assistant Secretary

9511#040

RULE

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Funeral Establishments Application (LAC 46:XXXVII.1101 and 1103)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq, and R.S. 37:840, notice is hereby given that the Department of Health and Hospitals, Board of Embalmers and Funeral Directors amended LAC 46:XXXVII, Chapter 11, Funeral Establishments.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVII. Embalmers and Funeral Directors

Chapter 11. Funeral Establishments

§1101. Application

Application for a funeral establishment license shall be made upon the form provided by the board, sworn to by applicant and accompanied by a fee of \$750. Said establishment shall meet the requirements as defined in R.S. 37:842. When an existing licensed establishment is sold, or in excess of 50 percent of the stock in a corporation holding an establishment license is sold, the purchaser must pay a fee of \$750 for a new license. The seller and the purchaser are to notify the board with full information as to the sale. Failure by either party to provide the board with notice, as herein set out, will bring about the suspension and/or revocation of the license of either or both parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended October 1969, February 1973, amended and promulgated LR 4:227 (June 1978), amended LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors LR 21: (November 1995).

§1103. Fixed Place; Extension of Funeral Establishment

A. The license is effective for a fixed place, or establishment, and for a specific name. Whenever the location or name of the licensed establishment is changed, a new license shall be obtained and a renewal fee of \$400 paid. All changes of name and/or location must be reported to the board's secretary without delay.

B. The board will recognize a fixed business office to maintain current funeral records (as provided within rule 4 and §831, et seq., to include current contracts, purchase agreements, current embalming log, and current preneed records) at a location other than the fixed location of the funeral establishment which shall be considered as an extension of the funeral establishment, and the current funeral records maintained within this extension shall be subject to the inspection of the board. Application for said extension to the funeral establishment shall be made upon the form provided by the board and shall be accompanied by a fee of \$400. Any changes in the location of this extension must be reported to the board immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended 1970, amended and promulgated LR 4:227 (June 1978), amended LR 5:278 (September 1979), LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors LR 21: (November 1995).

Dawn P. Scardino
Executive Director

9511#034

RULE

Department of Health and Hospitals Board of Embalmers and Funeral Directors

License Renewal and Reinstatement (LAC 46:XXXVII.701)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq, and R.S. 37:840, the Department of Health and Hospitals, Board of Embalmers and Funeral Directors has amended LAC 46:XXXVII, Chapter 7, License.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVII. Embalmers and Funeral Directors

Chapter 7. License

§701. Renewal and Reinstatement

A. All individual licenses issued by the board shall expire on the 31 day of December of each year and must be renewed on or before that date. All establishment licenses and preneed affidavits shall also expire on the 31 day of December and must be renewed on or before that date. Applications for renewal of licenses must be made to the secretary of the board upon forms furnished by said board and must be accompanied by a renewal fee of \$50 for individual licenses for embalmers and/or funeral directors and not more than \$400 for funeral establishments. There is no fee for the annual report of Prepaid Funeral Services or Merchandise.

* * *

D. When a licensed funeral establishment fails to renew its

license on or before December 31 of each year, said license shall lapse. However, same may be reinstated provided that the applicant shall submit to an inspection; and if the board is satisfied that the applying establishment meets all requirements, it shall issue a renewal license for the remaining portion of the current year upon payment of regular application fee of \$750.

* * *

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, LR 11:688 (July 1985), LR 13:436 (August 1987), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21: (November 1995).

Dawn P. Scardino
Executive Director

9511#033

RULE

Department of Health and Hospitals Board of Medical Examiners

Licensure; Examination; and Renewal Fees (LAC 46:XLV.125-131)

The Louisiana State Board of Medical Examiners, pursuant to the authority vested in the board by R.S. 37:1270(A), 37:1270(B)(6), and 37:1285, and the provisions of the Administrative Procedure Act, has amended its rules prescribing the fees payable for initial licensing examination, postgraduate education registration and annual licensure renewal for physicians and surgeons (LAC 46:XLV.125-131). The rule amendments were proposed for adoption by the notice of intent published in the July 20, 1995 *Louisiana Register*, Volume 21, pages 713-714. The text of the final rules, as amended by the board, is set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter C. Physicians and Surgeons Fees

§125. Licenses, Permits and Examination

* * *

C. For registration for and taking any step or portion of the United States Medical Licensing Examination (USMLE) or of the Special Purpose Examination (SPEX), the fee which shall be payable by the applicant to the board shall be equal to the cost of the examination to the board as charged by the Federation of State Medical Boards of the United States, Inc. With respect to each scheduled administration of an examination, the cost of the examination may be determined upon request of the office of the board and shall be set forth in application forms and materials furnished by the board upon request of the applicant.

D. When an applicant is required by Chapter 3 of these rules to take all or a portion of the USMLE, the fees prescribed by Subsection C of this Section shall be added to the applicable application processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:603 (June 1991), LR 21:467 (May 1995), LR 21: (November 1995).

§127. Postgraduate Education Registration

For processing an application for and issuance of a certificate of registration pursuant to Subchapter J of Chapter 3 of these rules, a fee of \$25 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21: (November 1995).

§129. Transfer of Permit of License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), repealed LR 21: (November 1995).

§129. Reserved

§131. Annual Renewal

A. For processing a licensee's annual renewal of license under §417 of these rules, a fee of \$150 shall be payable to the board.

B. For processing a permit holder's annual renewal of a graduate medical education temporary permit, a fee of \$25 shall be payable to the board.

C. For processing renewal of postgraduate medical education training registration, a fee of \$25 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21: (November 1995).

Delmar Rorison
Executive Director

9511#051

RULE

Department of Health and Hospitals Board of Optometry Examiners

General Provisions; License; Practice; Examination (LAC 46:LI.Chapters 1-5)

The State Board of Optometry Examiners hereby gives notice of its adoption of additional rules in LAC

46:LI.Chapters 1 through 5, as a requirement of recent legislation.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LI. Optometrists

Chapter 1. General Provisions

§101. Preamble

The Louisiana State Board of Optometry Examiners governs the practice of optometry in accordance with the Optometry Practice Act (the "act"), R.S. 37:1041 et seq.

1. The act is incorporated herein by references, as though copied in full.

2. The act is the source of the board's authority. Primary reference should be made to the act in determining the rules governing the operation of the board. The following rules supplement and further the purposes of the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Optometry Examiners, 1962, amended LR 13:241 (April 1987), repromulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21: (November 1995).

§103. Rulemaking Procedure

The board shall be governed by the provisions of the Optometry Practice Act, R.S. 37:1041 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., in adopting rules for the operation of the board and the practice of optometry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Optometry Examiners, 1975, promulgated LR 1:463 (October 1975), amended LR 13:241 (April 1987), repromulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21: (November 1995).

§105. Legislative History

A. The practice of optometry in Louisiana was initially governed by Act 193 of 1918, which was amended by Act 181 of 1920.

B. Act 172 of 1921 revised the law as it then existed.

C. In 1950, Louisiana adopted the Revised Statutes which codified existing legislation. The practice of optometry is currently governed by Chapter 12, Title 37 of the Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1061 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Optometry Examiners, LR 13:242 (April 1987), repromulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21: (November 1995).

§107. Organization of the Board

A. Introduction. See the provision of the act relative to the organization of the board, in particular, R.S. 37:1041-1048.

B. Definitions

1. As used in this Chapter, the following terms have the meaning ascribed to them in this Section, unless the context

clearly indicates otherwise.

2. Masculine terms shall include the feminine and, when the context requires, shall include partnership and/or professional corporations.

3. Where the context requires, singular shall include the plural or plural shall include the singular.

Act—the Optometry Practice Act, R.S. 37:1041 et seq.

Board—the Louisiana State Board of Optometry Examiners.

Diagnostic and Therapeutic Pharmaceutical Agent—any chemical in solution, suspension, emulsion, or ointment base, other than a narcotic, when applied topically that has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, or oral antibiotics, and oral antihistamines only when used in treatment of disorders or diseases of the eye and its adnexa. Licensed pharmacists of this state shall fill prescriptions for such pharmaceutical agents of licensed optometrists certified by the board to use such pharmaceutical agents.

Licensed Optometrist—a person licensed and holding a certificate issued under the provisions of the act.

Optometry—that practice in which a person employs primary eye care procedures or applies any means other than surgery for the measurement of the power and testing the range of vision of the human eye, and determines its accommodative and, refractive state, general scope of function, and the adaptation of frames and lenses, including contact lenses in all their phases, to overcome errors of refraction and restore as near as possible normal human vision. *Optometry* also includes the examination and diagnosis, and treatment of abnormal conditions and pathology of the human eye and its adnexa, including the use and prescription of diagnostic and therapeutic pharmaceutical agents. *Optometrists* shall issue prescriptions, directions and orders regarding medications and treatments which may be carried out by other health care personnel including Optometrists, Physicians, Dentists, Osteopaths, Pharmacists, Nurses, and others.

C. Purpose. The purpose of the board is to regulate the practice of optometry in Louisiana and to carry out the purposes and enforce the provision of the law of Louisiana relating thereto. The laws of Louisiana relating to the practice of optometry are set for the, in part, in the Optometry Practice Act, R.S. 37:1041 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1061 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Optometry Examiners, LR 13:242 (April 1987), amended by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21: (November 1995).

§109. Employment Restrictions

A. An optometrist, duly licensed under the provisions of the Louisiana Optometry Law as set forth in R.S. 37:1041 et seq., is prohibited from accepting employment as an optometrist from a corporation, except for professional optometric or medical corporations.

B. An optometrist, duly licensed under the provisions of the Louisiana Optometry Law as set forth in R.S. 37:1041 et

seq., is prohibited from accepting employment as an optometrist from a partnership composed of persons other than duly licensed optometrists.

C. Optometrists so employed (A) and (B) shall be considered in violation of provisions of R.S. 37:1061 and as such subject to refusal by the board to renew his or her optometry license on its annual renewal date of March 1 of each year (R.S. 37:1056) and/or subject to suspension or revocation of his certificate to practice upon due notice and hearing as provided in R.S. 37:1062.

NOTE: *Michel vs LA State Board of Optometry Examiners*, 156 So.2d 457.345 La. 1, No 46549 Supreme Court of La. June 28, 1963; Rehearing denied Oct. 9, 1963.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Optometry Examiners, September 1975, promulgated LR 1:463 (October 1975), amended LR 13:241 (April 1987), repromulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21: (November 1995).

§111. Referrals

A. No optometrist shall offer, make, solicit, or receive payment, directly or indirectly, overtly or covertly, in cash or in-kind, for referring or soliciting patients.

B. No optometrist shall make referrals outside the same group practice as that of the referring optometrist to any other health care provider, licensed health care facility, or provider of health care goods and services including but not limited to medical suppliers, and therapeutic services when the referring optometrist has a financial interest served by such referral, unless in advance of any such referral the referring optometrist, discloses to the patient, in writing, the existence of such financial interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21: (November 1995).

Chapter 3. License

§301. Continuing Education

Each licensed optometrist shall comply with the following continuing education requirements:

1. Standard optometry certificate holders and diagnostic pharmaceutical certificate holders shall complete between January 1 and December 31 of each calendar year at least 12 classroom hours of continuing education courses approved by the Louisiana State Board of Optometry Examiners.

2. Certificate holders authorized to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents shall complete between January 1 and December 31 of each calendar year at least 16 classroom hours of continuing education courses approved by the Louisiana State Board of Optometry Examiners, of which at least eight classroom hours shall consist of matters related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease. Such certificate holders will be entitled to apply the CPR continuing education to their required annual continuing education, provided that such CPR continuing education shall not count toward the required eight classroom hours related to ocular and system pharmacology and current diagnosis and treatment of ocular disease, and provided further that no

more than four hours of CPR continuing education may be applied to the continuing education requirement in any two calendar year periods. The eight hours of continuing education relating to ocular and systemic pharmacology and/or current diagnosis and treatment of ocular disease shall be obtained from the following sources only: clinical courses in ocular and systemic pharmacology and current diagnosis and treatment of disease sponsored by national, regional, or state Optometric associations recognized by the American Optometric Association; or schools and colleges of optometry accredited by the American Optometric Association.

3. Written evidence of satisfactory completion of the continuing education requirement for the prior calendar year shall be submitted on or before the first day of March of each year.

4. Failure to submit acceptable continuing education hours and pay the applicable fee on or before March 1 of each year shall operate as an automatic suspension of the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048 and R.S. 37:1061(17).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Optometry Examiners, 1970, amended by Department of Health and Hospitals, Board of Optometry Examiners, LR 19:1573 (December 1993), LR 21: (November 1995).

Chapter 5. Practicing Optometry

§501. Minimum Standards for an Optometric Examination

A. The optometrist shall keep the visual welfare of the patient uppermost at all times, promote the best care of the visual needs of mankind, strive continuously to develop educational, professional, clinical and technical proficiency and keep himself informed as to the new developments within his profession.

B. The optometrist shall conduct his practice in a decorous, dignified and professional manner and in keeping with the rules, regulations and ethics as promulgated by this board.

C. Minimum standards for an optometric examination are necessary in order to insure an adequate examination of a patient for whom an optometrist signs or causes to be signed, a prescription.

D. In the initial examination of the patient the optometrist shall make and record the following findings of the condition of the patient:

1. complete case history (ocular, physical, occupational, medical and other pertinent information);
2. chief ocular complaint;
3. aided and/or unaided visual acuity;
4. external examination (lids, cornea, sclera, etc.);
5. internal ophthalmoscopic examination (media, fundus, etc.);
6. neurological integrity (e.g. pupillary reflexes, direct, consensual);
7. far point subjective refraction;
8. near point subjective refraction;
9. tests of accommodation and binocular coordination at far and near, test preferably made with Phoropter;
10. tonometry.

E. The minimum standards for examination and fitting of

contact lenses are necessary in order to insure an adequate examination of a patient for whom an optometrist signs or causes to be signed a prescription for a contact lens and are as follows:

1. all items contained in the minimum standards for an optometric examination;
2. ophthalmometry or keratometry;
3. slit lamp evaluation;
4. fluorescein examination (for rigid lenses);
5. diagnostic evaluation for soft lenses;
- 6.a. re-examination and reevaluation within the following periods of time:
 - i. rigid lenses - six months;
 - ii. soft lenses - six months;
- b. If the patient does not return for this re-examination and re-evaluation, this requirement is waived.

F. In the event that the examining optometrist is not able, at the time of the examination, for any reason, to make the record of each of the points set forth herein, he shall record in writing his professional judgment for not making and recording same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Optometry Examiners, LR 3:496 (December 1977), amended LR 13:241 (April 1987), amended by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21: (November 1995).

§503. License to Practice Optometry

A. Introduction. See the provisions of the act relative to the license to practice optometry, in particular, R.S. 37:1049 et seq.

B. Graduate of Approved School. Optometric educational programs that are duly accredited by the Council of Optometric Education of the American Optometric Association and recommended to the board by the International Association of Boards of Examiners in Optometry as worthy of approval will meet the statutory requirements.

C. Application for Licensure by Reciprocity. The waiver provided for by R.S. 37:1054 (reciprocity) is within the discretion of the board. The board shall refer to the laws provided for in the regulation of the practice of optometry, the public interest, the interest of licensed optometrists and the interest of the applicant in the exercise of discretion.

D. Duplicate License. The secretary of the board, subject to prior board approval, may issue a duplicate certificate upon application of the licensed optometrist if all of the provisions of the act have been satisfied, and the applicant has paid a fee of \$25 to the board.

E. Beginning Practice. Upon beginning practice, a licensee shall notify the secretary of the board as to the address of his office and the telephone number. If any time any office has relocated, the licensee involved shall notify the secretary of his new office address and telephone number. If, for any reason, he ceases to practice, he shall so notify the secretary.

F. Continuing Education. In order to qualify for the annual license renewal required by R.S. 37:1057, the following information shall be presented to the secretary of the board.

1. Written certification that the doctor requesting license renewal has completed 12 hours of continuing education between January 1 and December 31 of each year immediately preceding the March 1 renewal date set forth in R.S. 37:1057; by attendance and completion of courses approved by the Louisiana State Board of Optometry Examiners.

2. Education hours will not qualify unless they are completed within the above stated calendar period.

3. While the education hours shall be accomplished within the calendar dates set forth in Paragraph 1 hereof, the written evidence of attendance shall be submitted on or before the first day of March of each calendar year provided that same is in the office of the secretary of the board on or before the first day of March of each calendar year in which license renewal is sought.

4. The requirement shall only be waived in cases of certified illness, certification by the commanding officer of those in the military that due to his military assignment it was impossible for him to comply or upon evidence satisfactory to the board that the applicant for renewal was unable to meet the requirement because of undue hardship.

5. Pay to the board the annual renewal fee provided in R.S. 37:1058 on or before the first day of March of each year.

G. Certification to Use Diagnostic and Therapeutic Drugs and to Treat Ocular Pathology. An optometrist may be certified to use ocular diagnostic and therapeutic pharmaceutical agents and to diagnose and treat ocular pathology. In order to obtain such certification, an optometrist shall comply with the following requirements:

1. Certification to Use Diagnostic Drugs

- a. In order to be approved as an optometrist authorized to use diagnostic drugs, as set forth in Act 123 of the 1975 Session of the Louisiana Legislature, an optometrist shall present to the secretary of the Louisiana State Board of Optometry Examiners for approval by the board, the following:

- i. evidence that the applicant is a licensed Louisiana optometrist, holding a current license in compliance with all license renewal requirements of the Louisiana Optometry Practice Act for the year in which he applies for certification;

- ii. transcript credits, in writing, evidencing that the applicant has completed a minimum of five university semester hours in pharmacology from an accredited university or college of optometry, subsequent to December 31, 1971. The pharmacology hours shall consist of a minimum of two hours in general pharmacology and a minimum of three hours in ocular pharmacology.

- b. Upon submission of the above, the secretary shall present same to the board for approval at the next regular meeting. Upon approval by the board, the secretary shall cause to be issued to the optometrist a certificate indicating compliance with the legislative requirement and intent.

- c. The certificate issued by the secretary shall be over the secretary's signature and bear a number identical to the number on the license originally issued by the board to the optometrist.

2. Certification to Treat Pathology and to Use and

Prescribe Therapeutic Pharmaceutical Agents

a. Definitions. For purposes of this Paragraph 2 the following definitions shall apply:

Application Date—the date the board receives in its office by certified mail return receipt requested an application for certification under this Paragraph 2.

Approved Educational Institution—an educational institution providing education in optometry that is approved by the board and is accredited by a regional or professional accrediting organization which is recognized or approved by the Council of Post-secondary Accreditation of the United States Department of Education.

Board—the Louisiana State Board of Optometry Examiners

Treatment and Management of Ocular Disease (TMOD)—test administered by the International Association of Board of Optometry.

b. Requirements for Certification. In order to obtain certification under this Paragraph 2, an optometrist shall present to the secretary of the Louisiana State Board of Optometry Examiners for approval by the board:

i. a certified transcript from an approved educational institution evidencing satisfaction of the educational prerequisites for certification to use diagnostic pharmaceutical agents as set forth in LAC 46:LI.503.G.1.a.ii or evidence of current certification by the board for the use of diagnostic pharmaceutical agents under LAC 46:LI.503.G.1; and

ii. certification from the American Heart Association or the American Red Cross evidencing current qualification to perform cardiopulmonary resuscitation (CPR). The certification must show completion of the basic CPR course or re-certification within six months of the application date in order to be considered "current"; and

iii. a signed statement from the applicant stating that he or she possesses operable and unexpired child and adult automatic epinephrine injector kits in every office location in which the applicant practices; and

iv. a certified transcript from an approved educational institution evidencing satisfactory completion after January 1, 1985 of 46 clock hours of classroom education and 34 clock hours of supervised clinical training which are equivalent to at least five semester hours of postgraduate education in the examination, diagnosis and treatment of abnormal conditions and pathology of the human eye and its adnexa. The board shall obtain such written certification as it deems appropriate to satisfy itself that the courses reflect on the transcript satisfy the statutory course requirements set forth in R.S. 37:1051(C). Inability of the board to obtain satisfactory written certification as set forth in the preceding sentence shall result in rejection of the optometrist's application under this Section; and

(a). if the applicant's transcript reflects graduation from an accredited school of optometry or completion of the required five semester hours in the examination, diagnosis, and treatment of abnormal conditions and pathology of the human eye and adnexa, between January 1, 1989 and December 31, 1992, the applicant shall also provide written evidence of satisfactorily completing, within the previous year of the application date, at least 12 clock hours of board

approved update training in recent ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; or

(b). if the applicant's transcript reflects graduation from an accredited school of optometry or completion of the required five semester hours in the examination, diagnosis, and treatment of abnormal conditions and pathology of the human eye and adnexa, between January 1, 1985 and December 31, 1988, the applicant shall also provide written evidence of satisfactorily completing, within the previous year of the application date, at least 20 clock hours of board approved update training in recent ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; or

(c). if the applicant's transcript reflects graduation from an accredited school of optometry after January 1, 1993, the applicant shall be deemed to have met the educational requirements and upon submission of evidence of current CPR certification and possession of the appropriate epinephrine injector kits the applicant shall be certified; or

v. in lieu of the requirements of LAC 46:LI.503.G.2.b.iv above, written proof of having passed the TMOD and a certified transcript from an approved educational institution evidencing successful completion of 34 clock hours of supervised clinical training after January 1, 1985 which are equivalent to at least two semester hours of postgraduate clinical education in the examination, diagnosis and treatment of abnormal conditions and pathology of the human eye and its adnexa.

3. Certificates. The board will provide each optometrist certified under the provisions of this Subsection with a certificate bearing the original optometric license number followed by a therapeutic certification number.

a. Original therapeutic pharmaceutical agent certificate fee - \$150.

b. Annual renewal of TPA certificate - \$100.

c. T.P.A. re-instatement fee - \$150.

H. Prescriptions

1. Every written prescription shall contain an expiration date and the signature of the optometrist issuing the prescription. The expiration date may not exceed 18 months.

2. Contact lenses may not be sold or dispensed without a written, signed, unexpired prescription.

3. An optometrist may not refuse to release to a patient a copy of the patient's prescription if requested by the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048 and R.S. 37:1051.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Optometry Examiners, September 1975, promulgated LR 1:463 (October 1975), amended LR 13:241 (April 1987), amended by the Department of Health and Hospitals, Board of Optometry Examiners, LR 19:1573 (December 1993), LR 21: (November 1995).

Chapter 7. Examinations

§701. Written Examination

A. Beginning January 1, 1986, a graduate of an approved school or college of optometry may submit evidence of having reached the recommended levels of acceptable performance on all written parts of the National Board of Examiners in Optometry and a true written copy of the score

report of such national board examination to the secretary of the Louisiana State Board of Examiners in lieu of taking the written examination administered by the Louisiana State Board of Optometry Examiners; and

B.1. Beginning with the graduating classes of 1989, every new graduate of an approved school or college of optometry making application to this board for examination and licensure shall submit evidence of having reached the recommended levels of acceptable performance on all written parts of the National Board of Examiners in Optometry and shall cause to be furnished a true written copy of the score report of such national board examinations to the secretary of the board prior to approval by the board of his application to take the clinical-practicum examination administered by the board.

2. Each applicant, after the requirements of the written examination are satisfied, will be given clinical-practicum examinations in written and/or clinical and/or practical form, said examinations to cover those subjects essential to the practice of optometry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 12:22 (January 1986), repromulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21: (November 1995).

James D. Sandefur, O.D.
Secretary

9511#026

RULE

Department of Health and Hospitals Board of Physical Therapy Examiners

Examination, Education, Definitions, Prohibitions (LAC 46:LIV.145,169,305 and 311)

Notice is hereby given, in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Physical Therapy Examiners (board), pursuant to the authority vested in the board by R.S. 2401.2(A)(3), has amended rules relative to the practice of physical therapy.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIV. Physical Therapy Examiners

Subpart 1. Licensing and Certification

Chapter 1. Physical Therapists and Physical Therapist Assistants

Subchapter F. Examination

§145. Passing Score

The board adopts the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy. The passing point shall be a scaled score of 600

based on a scale ranging from 200 to 800.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 21: (November 1995).

Subchapter I. Continuing Education

§169. Requirements

A. - B.1. ...

a. APTA (American Physical Therapy Association) accredited courses, LPTA (Louisiana Physical Therapy Association) accredited courses, APTA home study courses, or Louisiana State University Medical Center's School of Physical Therapy-sponsored courses.

b.i. - ii. ...

2. - 3.a. - f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21: (November 1995)

Subpart 3. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§305. Special Definition: Physical Therapy

A. ...

Repeal the term *Licensed in the State* and its definition

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:666 (July 1991), LR 19:208 (February 1993), LR 21: (November 1995).

Subchapter B. Prohibitions

§311. Prohibitions: Licensed or Temporary Permit Physical Therapists

A physical therapist shall not:

A. administer or implement any physical therapy treatment measures, procedures, or regimes except upon the prescription or referral of a physician, dentist or podiatrist licensed in any state.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:667 (July 1991), LR 19: 208 (February 1993), LR 21: (November 1995).

Sharon Toups
Chairman

9511#027

RULE

**Department of Health and Hospitals
Board of Practical Nurse Examiners**

Faculty (LAC 46:XLVII.901)

Notice is hereby given that the Board of Practical Nurse Examiners, under the authority vested in R.S. 37:961-979, amended LAC 46:XLVII.901 at its meeting on October 13, 1995 as follows:

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 9. Program Projection

Subchapter A. Faculty and Staff

§901. Faculty

A. At no time shall a faculty consist of less than two full-time nurse members, one of whom shall be designated as coordinator/department head.

The maximum enrollment of each class shall be 36 student admissions. The board may, upon application by the school administrator, permit program expansion. Expansion approval must be obtained in writing from the board.

B. Qualifications

1. Licensure

a. Each nurse faculty member shall hold a current, valid license to practice as a registered nurse in the state of Louisiana, which license shall be visually inspected annually by each school's administrative personnel.

b. The board may deny and/or rescind approval to a faculty applicant and/or current faculty member whose license has been or is currently being disciplined in any jurisdiction.

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:194 (April 1977), amended LR 10:338 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 16:33 (February 1990), LR 18:1127 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 21: (November 1995).

Terry L. DeMarcay, RN
Executive Director

9511#032

RULE

**Department of Health and Hospitals
Board of Veterinary Medicine**

Fees (LAC 46:LXXXV.501)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq., the Board of

Veterinary Medicine has amended LAC 46:LXXXV.501.

These changes result from an increase in the cost of the national examinations administered by the board and purchased from an authorized vendor. No other source for this examination is available to any board; failure to offer this examination would result in hardship for students at the LSU School of Veterinary Medicine and a loss of revenue for the board.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 5. Fees

§501. General Fees

The board hereby adopts and establishes the following fees:

- 1. Licenses
 - Annual renewal of active license \$ 125
 - Annual renewal of inactive license \$ 75
 - Duplicate license \$ 25
 - Original license fee \$ 100
 - Temporary license \$ 100
- 2. Exams
 - Clinical Competency Test (CCT) \$ 190
 - National Board Examination (NBE) \$ 215
 - NBE and CCT Combination \$ 355
 - State Board Examination \$ 175

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 and 1520.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980) amended LR 18:380 (April 1992), LR 19:1326 (October 1993), LR 21: (November 1995).

Vikki L. Riggle
Executive Director

9511#020

RULE

**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 adopted the following rule in the Medicaid Program as authorized by R.S. 46:153 and under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following regulations governing the provision of all mental health rehabilitation services in order for these services to be reimbursed by the Bureau of Health Services Financing under the Medicaid Program.

Providers of mental health rehabilitation services must:

- A. obtain prior authorization from the Medicaid agency or its designee certifying candidates for mental health

rehabilitation services who are Medicaid eligible and are members of the population of adults with serious mental illness or children with emotional/behavioral disorders as defined by the Office of Mental Health;

B. obtain prior authorization of the mental health rehabilitation plan by the Medicaid agency or its designee;

C. participate in provider training and technical assistance as required by the Medicaid agency or its designee;

D. participate in the mental health rehabilitation information system and provide up-to-date data including client data, service delivery information and assessment information to the Medicaid program or its designee on a weekly basis via electronic mail.

Rose V. Forrest
Secretary

9511#092

RULE

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

Nonemergency Medical Transportation

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is implementing the following provisions in the Nonemergency Medical Transportation Program which revises prior regulations governing insurance regulations for the Nonemergency Medical Transportation Program.

1. Nonemergency Medical Transportation providers shall have, at minimum, general liability coverage of \$300,000 on the business entity. Providers shall have, at minimum, automobile liability coverage of \$100,000 per person and \$300,000 per accident or a combined single limit of \$300,000. This liability policy shall include "owner" autos, hired autos and non-owned, leased, autos.

2. The agency requires proof of coverage and such proof shall be in the form of a true and correct copy of the insurance policy for automobile and general liability issued by the home office of the insurance company. The policy must be submitted to the bureau within 45 days of issuance or renewal of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Services Financing. If the true and correct copy of the insurance policy is not received within 45 days then the provider scheduling and transporting privileges shall be

suspended effective with the forty-sixth day.

A certificate from the insurance agent, including a facsimile, shall be acceptable proof of insurance for up to 45 days to allow time for the issuance of the policy. The certificate must include the dates of coverage and shall stipulate that the policy includes a 30-day cancellation notification clause. If a facsimile copy of a certificate from an insurance agent is submitted the original shall be submitted timely to the bureau. Certificates not subsequently verified by the policy shall be referred to the attorney general's Medicaid Fraud Control Unit and the provider's scheduling privileges immediately suspended.

3. When insurance is canceled or expires provider scheduling and transporting shall be immediately terminated. Transportation providers must maintain insurance coverage as a condition of participation in the Medicaid program.

4. Proof of renewal and reinstatement must be received by the Bureau of Health Services Financing at least 48 hours prior to the end date of coverage. Reinstatement endorsements will be accepted to verify coverage after cancellation or proposed cancellation only if there has been no change in coverage and if signed and dated by the agent or company representative authorized to reinstate coverage. Any provider whose automobile and or general liability coverage lapses more than twice within a calendar year will have their transporting and scheduling privileges suspended for 30 days effective the day after the date the agency has knowledge that the coverage has lapsed the second time. Certificates from agents verifying retroactive coverage will not be accepted as a reason to waive this penalty.

5. The agency shall be notified immediately when there are changes in coverage. The required proof and procedures for documenting changes shall follow the procedures used to initially verify coverage. Changes to the 30-day cancellation notification to the agency shall result in immediate termination from participation.

6. Premiums shall be prepaid for a period of three months. Acceptable proof of prepaid insurance shall at a minimum include a statement from the authorized agent (signed and dated) or company representative which includes the dates of coverage and dates through which the premium is paid. This statement is in effect through the end date of payment noted and another statement verifying prepayment for the following three months should be received by the Bureau of Health Services financing 48 hours prior to expiration.

7. Providers who lose the right to participate for failure to prepay insurance may re-enroll in the transportation program and will be subject to all applicable enrollment policies, procedures and fees for new providers.

8. The agency will accept a safe driver training certificate from any school recognized by the National Safety Council or its equivalent.

Rose V. Forrest
Secretary

9511#093

RULE

**Department of Insurance
Commissioner of Insurance**

Regulation 56—Credit for Reinsurance

Under the authority of R.S. 22, Sections 2 (H), 3 and 947, the Department of Insurance hereby adopts the following regulation. This intended action complies with the statutory law administered by the Department of Insurance.

**Regulation 56
Credit for Reinsurance**

Table of Contents

- Section 1. Authority
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- Section 3. Severability
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- Section 6. Credit for Reinsurance - Reinsurer Maintaining Trust Funds
- Section 7. Credit for Reinsurance Required by Law
- Section 8. Reduction from Liability for Reinsurance Ceded to Unauthorized Assuming Insurer
- Section 9. Trust Agreements Qualified Under Section 8
- Section 10. Letters of Credit Qualified Under Section 8
- Section 11. Other Security
- Section 12. Reinsurance Contract
- Section 13. Agreements requiring approval
- Section 14. Contracts Affected
- Form AR-1 Certificate of Assuming Insurer

The purpose of this regulation is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the statutory provisions on Credit for Reinsurance, R.S. Title 22, Sections 941 et seq. The actions and information required by this regulation are hereby declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state.

Interested persons may obtain a copy of this regulation from the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802. There is a \$6.25 charge for this material. Please reference number 9511#028.

James H. "Jim" Brown
Commissioner

9511#028

RULE

**Department of Insurance
Commissioner of Insurance**

Regulation 57—Life and Health Reinsurance Agreements

Under the authority of R.S. 22, Sections 2 (H), 3 and 947, the Department of Insurance hereby adopts the following regulation. This action complies with the statutory law administered by the Department of Insurance.

Regulation 57

Life and Health Reinsurance Agreements

Section 1. Authority

This regulation is promulgated by the Commissioner of Insurance (the "commissioner") under the authority granted by Louisiana Revised Statutes (R.S.) Title 22, Sections 2(H), 3 and 947 and the Administrative Procedure Act, R.S. Title 49, Sections 950 et seq.

Section 2. Preamble

A. The Louisiana Insurance Department recognizes that insurers possessing a certificate of authority routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.

B. However, it is improper for an insurer possessing a certificate of authority in the capacity of ceding insurer, to enter into reinsurance agreements for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement, such as catastrophic mortality or extraordinary survival.

Section 3. Scope

This regulation shall apply to all domestic life and accident and health insurers and to all other life and accident and health insurers which possess a certificate of authority and which are not subject to a substantially similar regulation in their domiciliary state. This regulation shall also similarly apply to property and casualty insurers which possess a certificate of authority with respect to their accident and health business. This regulation shall not apply to assumption reinsurance, yearly renewable term reinsurance or certain nonproportional reinsurance such as stop loss or catastrophe reinsurance.

Section 4. Accounting Requirements

A. No insurer subject to this regulation shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

(1) renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period, are not sufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall (using assumptions equal to the applicable statutory reserve basis on the business reinsured). Those expenses include commissions, premium taxes and direct expenses including, but not limited to, billing, valuation, claims and maintenance expected by the company at the time the business is reinsured;

(2) the ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due, such as modified

coinsurance reserve adjustments, interest and adjustments on funds withheld, and tax reimbursements, shall not be considered to be such a deprivation of surplus or assets;

(3) the ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against current and prior years' losses under the agreement nor payment by the ceding insurer of an amount equal to the current and prior years' losses under the agreement upon voluntary termination of in force reinsurance by the ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions which allow the reinsurer to reduce its risk under the agreement. An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding company to prematurely terminate the reinsurance treaty;

(4) the ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

(5) the reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income realized from the reinsured policies. For example, it is improper for a ceding company to pay reinsurance premiums, or other fees or charges to a reinsurer which are greater than the direct premiums collected by the ceding company;

(6) the treaty does not transfer all of the significant risk inherent in the business being reinsured. The following table identifies for a representative sampling of products or type of business, the risks which are considered to be significant. For products not specifically included, the risks determined to be significant shall be consistent with this table.

Risk categories:

- (a) Morbidity
- (b) Mortality
- (c) Lapse. This is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy.

(d) Credit Quality (C1). This is the risk that invested assets supporting the reinsured business will decrease in value. The main hazards are that assets will default or that there will be a decrease in earning power. It excludes market value declines due to changes in interest rate.

(e) Reinvestment (C3). This is the risk that interest rates will fall and funds reinvested (coupon payments or monies received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase.

(f) Disintermediation (C3). This is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal. If asset durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering higher rates. The company may have to sell assets at a loss to

provide for these withdrawals.

+ - Significant 0 - Insignificant

Risk Category

a b c d e f

Health Insurance - other than LTC/LTD*

+ 0 + 0 0 0

Health Insurance - LTC/LTD*

+ 0 + + + 0

Immediate Annuities

0 + 0 + + 0

Single Premium Deferred Annuities

0 0 + + + +

Flexible Premium Deferred Annuities

0 0 + + + +

Guaranteed Interest Contracts

0 0 0 + + +

Other Annuity Deposit Business

0 0 + + + +

Single Premium Whole Life

0 + + + + +

Traditional Non-Par Permanent

0 + + + + +

Traditional Non-Par Term

0 + + 0 0 0

Traditional Par Permanent

0 + + + + +

Traditional Par Term

0 + + 0 0 0

Adjustable Premium Permanent

0 + + + + +

Indeterminate Premium Permanent

0 + + + + +

Universal Life Flexible Premium

0 + + + + +

Universal Life Fixed Premium

0 + + + + +

Universal Life Fixed Premium

0 + + + + +

dump-in premiums allowed

*LTC = Long Term Care Insurance

LTD = Long Term Disability Insurance

(7) (a) The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured and the ceding company does not (other than for the classes of business excepted in Paragraph (7)(b) either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the commissioner which legally segregates, by contract or contract provision, the underlying assets.

(b) Notwithstanding the requirements of Paragraph (7)(a), the assets supporting the reserves for the following classes of business and any classes of business which do not have a significant credit quality, reinvestment or disintermediation risk may be held by the ceding company without segregation of such assets:

Health Insurance - LTC/LTD

Traditional Non-Par Permanent

Traditional Par Permanent

Adjustable Premium Permanent

Indeterminate Premium Permanent
Universal Life Fixed Premium (no lump-in premiums
allowed)

The associated formula for determining the reserve interest rate adjustment must use a formula which reflects the ceding company's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula:

$$\text{Rate} = 2(I + CG) \\ X + Y - I - CG$$

Where: I is the net investment income

CG is capital gains less capital losses

X is the current year cash and invested assets

Y is the same as X but for the prior year

(8) Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within 90 days of the settlement date.

(9) The ceding insurer is required to make representations or warranties not reasonably related to the business being reinsured.

(10) The ceding insurer is required to make representations or warranties about future performance of the business being reinsured.

(11) The reinsurance agreement is entered into for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business reinsured and, in substance or effect, the expected potential liability to the ceding insurer remains basically unchanged.

B. Notwithstanding Subsection A, an insurer subject to this regulation may, with the prior approval of the commissioner, take such reserve credit or establish such asset as the commissioner may deem consistent with the Louisiana Insurance Code and rules and regulations of the department, including actuarial interpretations or standards adopted by the department.

C. (1) Agreements entered into after the effective date of this regulation which involve the reinsurance of business issued prior to the effective date of the agreements, along with any subsequent amendments thereto, shall be filed by the ceding company with the commissioner within 30 days from its date of execution. Each filing shall include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this regulation and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with this department. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this regulation.

(2) Any increase in surplus net of federal income tax resulting from arrangements described in Subsection C(1) shall be identified separately on the insurer's statutory financial statement as a surplus item (aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account, page 4 of the Annual Statement) and recognition of the surplus increase as income shall be reflected on a net of tax basis in the "Reinsurance ceded" line, page 4 of the Annual Statement as earnings emerge from the business reinsured.

(For example, on the last day of calendar year N, company XYZ pays a \$20 million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a 34 percent tax rate, the net increase in surplus at inception is \$13.2 million (\$20 million - \$6.8 million) which is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus account. \$6.8 million (34 percent of \$20 million) is reported as income on the "Commissions and expense allowances on reinsurance ceded" line of the Summary of Operations.

At the end of year N+1 the business has earned \$4 million. ABC has paid \$.5 million in profit and risk charges in arrears for the year and has received a \$1 million experience refund. Company ABC's annual statement would report \$1.65 million (66 percent of (\$4 million - \$1 million - \$.5 million) up to a maximum of \$13.2 million) on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and -\$1.65 million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account. The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations.)

Section 5. Written Agreements

A. No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the department, unless the agreement, amendment or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

B. In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding 90 days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

C. The reinsurance agreement shall contain provisions which provide that:

(1) the agreement shall constitute the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and

(2) any change or modification to the agreement shall be null and void unless made by amendment to the agreement and signed by both parties.

Section 6. Existing Agreements

Insurers subject to this regulation shall reduce to zero by December 31, 1995 any reserve credits or assets established with respect to reinsurance agreements entered into prior to the effective date of this regulation which, under the provisions of this regulation would not be entitled to recognition of the reserve credits or assets; provided, however, that the reinsurance agreements shall have been in compliance with laws or regulations in existence immediately preceding the effective date of this regulation.

Section 7. Effective Date

This regulation shall become effective November 20, 1995.

James H. "Jim" Brown
Commissioner

9511#029

RULE

Department of Natural Resources Office of Conservation

Statewide Order 29-Q-2 (LAC 43:XIX.701-707)

Pursuant to power delegated under the laws of the state of Louisiana, including but not limited to Chapter I of Title 30 of the Louisiana Revised Statutes of 1950 and particularly Sections 21 and 204 of said Title 30, which authorizes the commissioner of conservation, among other things, to periodically review the fees collected by his office, the following amendments to rules, regulations, fees, and schedules are adopted by the commissioner of conservation as being reasonably necessary to govern the applications, permitting, monitoring, and maintaining of operations and activities within the regulatory jurisdiction of the Office of Conservation, and to otherwise carry out the laws of this state.

Title 43

NATURAL RESOURCES

Part XIX. Conservation: General Operations

Subpart 2. Statewide Order Number 29-Q-2

Chapter 7. Fees

§701. Definitions

Annual "Inspection" Fee—an annual regulatory fee for inspection, monitoring and regulatory maintenance of all production wells, as authorized by LSA-R.S. 30:21.

Application Fee—an amount payable to the Office of Conservation for processing, reviewing, and administering an application requesting authority to conduct an activity or operation subject to the regulatory jurisdiction of the Office of Conservation.

Application for Automatic Custody Transfer—an application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order Number 29-G.

Application for Commercial Class I Injection Well—an application to construct a commercial Class I injection well, as authorized by Statewide Order Numbers 29-N-1 or 29-N-2.

Application for Commercial Class I Injection Well (Additional Wells)—an application to construct additional Class I injection wells within the same filing, as authorized by Statewide Order Numbers 29-N-1 or 29-N-2.

Application for Commercial Class II Injection Well—an application to construct a commercial Class II or Class V injection well, as authorized by Statewide Order Number 29-B, or other applicable regulations.

Application for Commercial Class II Injection Well (Additional Wells)—an application to construct additional Class II or Class V injection wells within the same filing, as authorized by Statewide Order Number 29-B, or other applicable regulations.

Application for Multiple Completion—an application to multiply complete a new or existing well in separate common sources of supply, as authorized by Statewide Order Number 29-C, and Statewide Order Number 29-C-3, or successor

regulation.

Application for Noncommercial Injection Well—an application to construct a Class I, II, III, or V noncommercial injection well, as authorized by Statewide Orders Numbers 29-B, 29-M, 29-N-1, or 29-N-2.

Application for Permit to Drill (Minerals)—an application to drill in search of minerals, as authorized by LSA-R.S. 30:204.

Application for Public Hearing—an application for a public hearing as authorized by LSA-R.S. 30:6(B).

Application for Substitute Unit Well—an application for a substitute unit well as authorized by Statewide Order Number 29-K, or successor regulation.

Application for Surface Mining Development Operations Permit—an application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order Number 29-0-1, or successor regulations.

Application for Surface Mining Exploration Permit—an application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized in Statewide Order Number 29-0-1, or successor regulations.

Application for Surface Mining Permit—an application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order Number 29-0-1, or successor regulations.

Application for Unit Termination—an application for unit termination as authorized by Statewide Order Number 29-L-1, or successor regulation.

Application to Amend Permit to Drill (Injection or Other)—an application to alter, amend, or change a permit to drill an injection, or other well after its initial issuance, as authorized by LSA-R.S. 30:21.*

*Application to Amend Operator (transfer of ownership) for any multiply completed well which has reverted to a single completion (Status 22), any non-producing well which is plugged and abandoned within the timeframe directed by the commissioner as well as any stripper crude oil well or incapable gas well so certified by the Department of Revenue and Taxation shall not be subject to the application fee provided herein as authorized by House Concurrent Resolution Number 6 of the 1995 Regular Session or successor resolution or mandate.

Application to Amend Permit to Drill (Minerals)—an application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by LSA-R.S. 30:204 C.

Application to Commingle—an application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order Number 29-D, or successor regulation.

Application to Process Form R-4—an application for authorization to transport oil from a well as authorized by Statewide Order Number 25-A, or successor regulation.

Class I Injection Well—Class I injection wells within the State used to inject hazardous, industrial, or municipal wastes into the subsurface, which fall within the regulatory purview

of Statewide Order Numbers 29-N-1 or 29-N-2.

Class II Injection Well—Class II injection wells which inject fluids which are brought to the surface in connection with conventional oil or natural gas production, including annular disposal wells, for enhanced recovery of oil and natural gas, and for storage of hydrocarbons which are liquid at standard temperature and pressure.

Emergency Clearance—emergency authorization to transport oil from well.

Production Well—any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order Number 29-B in LAC 43:XIX.Subpart 1) or for residential consumption, multiply completed wells reverted to single completion, multiply completed wells which are not reverted to single completions but which are off production are have no future production capability from the current perforated interval, stripper crude oil wells and incapable gas wells certified by the Severance Tax Division of the Department of Revenue and Taxation on January 1 of each year, and shut in or temporarily abandoned oil wells in Stripper Fields as determined by the Office of Conservation effective for the month of January of each year.

Regulatory Fee—an amount payable annually to the Office of Conservation for a particular operation or activity within the regulatory jurisdiction of the Office of Conservation, for the purpose of permitting, monitoring, and maintaining regulatory control of the particular operation or activity by the Office of Conservation.

Type A Facility—commercial oilfield waste disposal facilities within the State that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order Number 29-B in LAC 43:XIX.Subpart 1, or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

Type B Facility—commercial oilfield waste disposal facilities within the state that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order Number 29-B in LAC 43:XIX.Subpart 1, or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15: 551 (July 1989), LR 21: (November 1995).

§703. Fee Schedule

A. Application Fees

Application for Unit Termination	\$ 210
Application for Substitute Unit Well	\$ 210
Application for Public Hearing	\$ 630
Application for Multiple Completion	\$ 105
Application to Commingle	\$ 210
Application for Automatic Custody Transfer	\$ 210
Application for Noncommercial Injection Well	\$ 210
Application for Commercial Class I Injection Well	\$1,050
Application for Commercial Class I Injection Well (Additional Wells)	\$ 525
Application for Commercial Class II Injection Well	\$ 525
Application for Commercial Class II Injection Well (Additional Wells)	\$ 262
Application for Permit to Drill - Minerals: 0' - 3,000'	\$ 105
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$ 525
Application for Permit to Drill - Minerals: 10,001' +	\$1,050
Application to Amend Permit to Drill - Minerals	\$ 105
Application to Amend Permit to Drill - Injection or Other	\$ 105
Application for Surface Mining Exploration Permit	\$ 52
Application for Surface Mining Development Operations Permit	\$ 78
Application for Surface Mining Permit	\$1,837
Application to Process Form R-4	\$ 26
Application to Reinstate Suspended Form R-4	\$ 52
Application for Emergency Clearance Form R-4	\$ 52

B. Regulatory Fees

1. Operators of each permitted Class I Injection Well are required to pay an annual Regulatory Fee of \$7,350 per Class I Injection Well. Such payments are due within the timeframe prescribed by the Office of Conservation.

2. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,250 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

3. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,625 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

4. Operators of all production wells are required to pay an annual Regulatory Fee ("Inspection Fee") of \$52 per well. Such payments are due within the timeframe prescribed by the Office of Conservation.

5. Operators of each Class II Injection Well are required to pay an annual Regulatory Fee of \$52 per well. Such

payments are due within the timeframe prescribed by the Office of Conservation.

6. Operators of Record, including but not limited to operators of oil and/or gas wells, gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of \$105. Such payment is due within the timeframe prescribed by the Office of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15: 552 (July 1989), LR 21: (November 1995).

§705. Failure to Comply

A. Operators of operations or activities defined in §701 are required to timely comply with this order. Failure to comply within 30 days past the due date of any required regulatory fee payment may subject the operator to civil penalties under LSA-R.S. 30:18 and LSA-R.S. 30:6(G), and may be cause to immediately suspend operations of the particular operations or activities and schedule a public hearing to show cause why the permit for the particular operations or activities should not be revoked.

B. Failure to timely submit the required application fee payment will result in application denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15: 552 (July 1989), LR 21: (November 1995).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order Number 29-Q-2, and if any such individual fee is held to be unacceptable, pursuant to LSA-R.S. 49:968(H)(2), or held invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order supersedes Statewide Order Number 29-Q-1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15: 552 (July 1989), LR 21: (November 1995).

Ernest A. Burguières, III
Commissioner

9511#022

RULE

Department of Social Services Office of Rehabilitation Services

Personal Care Attendant Policy (LAC 67:VII.1127 and 1129)

In accordance with the provision of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) has revised its Personal Care Attendant (PCA) policy to allow the agency to provide continuing services to applicants and clients. Current policy remains unchanged; however, the addition to the current policy covers such items as fraud and the recovery steps.

Title 67

SOCIAL SERVICES

Part VII. Louisiana Rehabilitation Services

Chapter 11. Personal Care Attendant Policy

§1127. Violations and Penalties

A. The following violations may result in termination of services or other penalties:

1. no longer meets eligibility criteria as outlined in Section VII.B of the Personal Care Attendant Manual;
2. falsified information (time sheets, signed PCA's name to check and/or time sheets, etc.);
3. misuse of PCA funds (failure to pay attendant amount due, use of PCA reimbursement for services unrelated to approved PCA Care Plan, etc.);
4. does not file/pay required taxes;
5. unable to be contacted and/or whereabouts unknown for 30 days or more;
6. any other reason which is contradictory to policy and procedures for the PCA program.

B. Definition

Fraud—use of trickery of deceit to receive benefits. For fraud to exist, one of the following must exist:

- a. misrepresentation of fact affecting eligibility, amount of benefits, and/or use of PCA funds. The burden of proof that fraud exists is on the CIL;
- b. the misrepresentation must have been made knowingly and with deceitful intent.

Intentional Program Violation—made a false or misleading statement, or misrepresented, concealed or withheld fact; or committed any act that constitutes a violation of the PCA program or PCA policy and/or procedures. Also, a client who repeatedly fails to comply with the policies and/or procedures of the PCA program would be in violation of this Section.

C. Warning. The CILs can issue a "warning" to clients who do not willingly or knowingly commit a violation, such as failure to pay taxes. The CIL would determine if the violation was intentional. If not, written notice of the violation and action to correct the violation is to be given to the client. A copy of the notice to the client is to be placed in the client's file. Repeat of the violation would be brought to the attention of the PCA evaluation team for consideration of termination.

D. Recoupment

RULE

Department of Social Services Office of Rehabilitation Services

Traumatic Head and Spinal Cord Injury Trust Fund Program (LAC 67:VII.1901-1927)

1. In lieu of termination, the PCA evaluation team can demand that a client can refund the PCA program for all benefits received because of a violation as listed above.

2. If the PCA evaluation team rules that the client must repay the amount in question, the CIL will determine the repayment schedule. Client can remain eligible as long as recoupment is made and a willingness to comply with policies and procedures set forth in the PCA program are shown. The CIL shall maintain close monitoring of client until such time the CIL determines client is complying with the policies and procedures.

3. Recoupment is required from fraudulently received benefits as well, however, the client will not be eligible for further services.

E. Termination. The PCA evaluation team may terminate an individual who violates the policy and/or procedures of the PCA program. The determination to terminate will be based on the severity of the violation(s) and/or continued violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, LR 17:611 (November, 1993), amended LR 21: (November 1995).

§1129. Procedures for Termination and/or Appeals

When a client is terminated from this program:

1. a copy of the termination letter to the client which explains the reason and right to an appeal will be sent to the CIL;

2. the CIL should provide the client with a copy of the PCA Policy Manual;

3. if the client appeals, a letter will be sent from LRS PCA program manager to the CIL which will indicate that the client will continue to receive services until the appeals process is completed;

4. upon receipt of the letter concerning the appeal, the CIL is to contact and advise the client of the continuation of services throughout the appeals process;

5. the CIL will be contacted when the appeal process is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, LR 17:611 (November, 1993), amended LR 21: (November 1995).

The entire policy manual may be viewed at Louisiana Rehabilitation Services State Office, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834 and at the nine Louisiana Rehabilitation Services Regional Offices (statewide) or at the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802.

Gloria Bryant-Banks
Secretary

9511#053

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) has adopted a new Traumatic Head and Spinal Cord Injury Trust Fund Program Policy.

The purpose of this rule is to govern Louisiana Rehabilitation Services' Traumatic Head and Spinal Cord Injury Trust Fund Program Policy to ensure uniformity in establishing the operation and services for the program.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 19. Traumatic Head and Spinal Cord Injury Trust Fund Program Policy

§1901. Program Profile

A. Mission. To provide services in a flexible, individualized manner to Louisiana citizens who survive traumatic head or spinal cord injuries enabling them to return to a reasonable level of functioning and independent living in their communities.

B. Program Administration

1. The Department of Social Services, Louisiana Rehabilitation Services (LRS), shall be responsible for administration of the Louisiana Traumatic Head and Spinal Cord Injury Trust Fund.

2. The Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board will have the responsibility of promulgating rules and regulations; establishing priorities and criteria for disbursement of the fund; investigating the needs of head injured and spinal cord injured individuals to identify service gaps and needs; submitting an annual report with recommendations to the legislature and governor 60 days prior to each regular session of the legislature; and monitoring, evaluating, and reviewing the development and quality of services and programs funded through the trust fund.

C. Exceptions and Waivers. It shall be the sole responsibility of the Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board to make any exceptions to or waiver of this policy. Such exceptions/waiver will be made only on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

§1903. Enabling Legislation

House Bill Number 1579, Act 654 of the 1993 Regular Session, Chapter 48, of Title 46 of the Revised Statutes 46:2631 through 2635 and R.S. 36:478(G).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of

Social Services, Rehabilitation Services, LR 21: (November 1995).

§1905. Definitions

Advisory Board—Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board.

Domiciled—a resident of Louisiana, United States of America, with intent to permanently remain within the state.

Medically Stable—normal vital signs, no progression of deficits and/or no deterioration of physical/cognitive status. Does not require acute daily medical intervention.

Medically Unstable—fluctuating vital signs requiring acute medical attention. Progression of neurologic deficits and/or deterioration of medical condition.

Spinal Cord Injury—an insult to the spinal cord, not of a degenerative or congenital nature but caused by an external physical force resulting in paraparesis/plegia or quadraparesis/plegia.

Traumatic Head Injury—an insult to the head, affecting the brain, not of a degenerative or congenital nature, but caused by an external physical force that may produce a diminished or altered state of consciousness which results in an impairment of cognitive abilities or physical functioning.

Trust Fund—Traumatic Head and Spinal Cord Injury Trust Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

§1907. General Requirements

A. Nondiscrimination. All programs administered by and all services provided by the agency shall be rendered on a nondiscriminatory basis without regards to race, creed, color, age, religion, sex, national origin, disability, ethnicity, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations.

1. Civil Rights and Equal Employment Opportunities With Regard to Employees or Agencies Delivering Services. Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination because of race, color, or national origin; Title V of the Rehabilitation Act of 1973, as amended, and Title I of the Americans with Disabilities Act/P.L. 101-336 prohibit discrimination because of disabling condition. The provisions of these acts apply to services and programs administered by Louisiana Rehabilitation Services.

2. Compliance with State and Federal Laws and Regulations, and Departmental Policies and Procedures. All agencies and staff involved in the Traumatic Head and Spinal Cord Injury Trust Fund shall comply with all state and federal laws, including the Department of Social Services, Louisiana Rehabilitation Services policies and procedures as well as civil rights rules and regulations, as applicable.

B. Cost-Effective Service Provision. All services shall be provided in a cost effective manner.

C. Case Record Documentation. A case record will be maintained for each individual served. The record shall contain documentation to support the decision to provide, deny, or amend services. The case record will contain documentation of the amounts and dates of each service delivery.

1. All records must maintain service plans and progress notes.

2. All records must reflect individual identifications, and other pertinent medical histories.

D. Expeditious Service Provision. All referrals, individual applications and services shall be provided equitably and expeditiously.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

§1909. Confidentiality

A. General Statement. All files and information will be maintained in the strictest security and confidentiality, and the information will be used only for purposes directly connected to delivery of services.

B. Notification of Individuals. Individuals who are requested to supply information shall be informed of the need to collect confidential information and of the policy governing its use, dissemination and access including:

1. rights to confidentiality;
2. rationale to use or disclose requested information;
3. whether the individual may refuse, or is legally required to supply the requested information;
4. known consequences resulting from not providing the requested information.

C. Release of Confidential Information. All case records shall have documentation verifying informed consent for release of individual information with the following exceptions:

1. public assistance agencies or programs from which the individual has requested services or to which the individual is referred for services;
2. doctors, hospitals, rehabilitation centers, independent living centers, and/or supported living programs providing services to individuals as authorized by the trust fund.

D. Individual's Access to Information. All individuals shall have access to information in records, in an expeditious fashion, when requested in writing by the individual or his/her legal representative, with the exceptions of:

1. medical, psychological and other pertinent information, when the program manager or designee in prudent judgment documents in writing that disclosure to the individual would be detrimental to the individual's physical or psychological health;

Note: In cases when information is not disseminated to the individual, the information shall be released to the individual's representative, physician or licensed psychologist with assurance that it will not be released to the individual.

2. personal information that has been obtained from another vendor, agency, or organization. In these instances, it shall only be released as per direction from that agency or organization.

E. Informed Consent. Informed consent will be:

1. in the language that the individual understands;
2. dated;
3. specific as to the nature of the information which may be released;
4. specific as to the parties to whom the information may be released;

5. specific as to the purpose(s) in which the released information may be used;

6. specific as to the expiration date of the informed consent, which shall not exceed one year;

7. in the event of the individual's incapacity to understand and execute the informed consent, the individual's legal guardian, authorized representative, or the parent of a minor child, as applicable, may provide informed consent. (Documentation of guardianship or authorized representation required.)

F. Confidentiality—HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

G. Court Orders, Warrants, and Subpoenas. Subpoenaed case records and depositions will be handled in the following manner:

1. With the written informed consent of the individual, after compliance with the waiver of confidentiality requirements (signed informed consent of individual or guardian), the court will be given full cooperation.

2. Without the written informed consent of the individual, when an employee is subpoenaed for a deposition or receives any other request for information regarding an individual, he/she should:

a. inform the attorney, or other persons making the request of the confidentiality of the records;

b. inform in writing the program manager or designee of the request.

3. When an employee is subpoenaed by a court in a civil action to testify or to present case record information concerning an individual, the employee is to do the following:

a. contact the Department of Social Services, Bureau of General Counsel, Louisiana Rehabilitation Services staff attorney;

b. honor the subpoena;

c. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

d. if called upon to testify or to present the case information, inform the court of the following:

i. that the case record information or testimony is confidential information;

ii. the subpoenaed case record information is in employee's possession;

iii. employee will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

§1911. Individual Appeal Rights

A. Administrative Review. The administrative review is a process which may be used by individuals for a timely resolution of disagreements pertaining to eligibility decisions or a denial of services. The administrative review will allow the individual an opportunity for a face to face meeting in which a thorough discussion with the program manager of the Traumatic Head and Spinal Cord Injury Trust Fund Program can take place regarding the issues of concern. Also in

attendance at the administrative review will be a representative of the Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board. The individual will have the right to submit additional evidence and information and will have the right to bring representation to the administrative review.

1. All applicants must be provided adequate notification of appeal rights regarding eligibility and/or the provision or denial of services. Unless services being provided have been obtained through misrepresentation, fraud, collusion or criminal conduct on the part of the individual, such services will continue during the administrative review process.

2. The appeal request must be made in writing and post-marked or received in the office of the program manager of the trust fund program within 10 calendar days of receipt of notification of denial of eligibility or a denial of services. The administrative review must take place and a decision reached within 30 calendar days of the receipt of the individuals' request. The individual must be provided with a final written decision within that time period.

3. In order to insure that the individual is afforded the option of availing themselves of the opportunity to appeal decisions impacting their eligibility and/or receipt of services, adequate notification will include:

a. the decision being reached;

b. the basis for and effective date of the decision;

c. the specific means for appealing the decision;

d. the individual's right to submit additional evidence and information, including the individual's right to representation; and

e. the name and address of the program manager of the trust fund program. The program manager should be contacted in order to schedule an administrative review or advisory board review.

B. Advisory Board Review. In the event that a disputed decision is not resolved through the administrative review process, the individual may request a review before the advisory board. The individual must make the request for an advisory board review in writing to the program manager of the trust fund program. This request must be post-marked or received in the office of the program manager within 10 calendar days of receipt of the program manager's decision following the administrative review. The advisory board review will take place at the time of the next regularly scheduled advisory board meeting following the receipt of the individual's written request, unless the program manager deems that it is necessary to address the situation sooner, in which case a special meeting of the advisory board could be called for the purpose of conducting the review. The individual will have the right to submit additional evidence and information and will have the right to bring representation to the advisory board review. A final written decision must be rendered within two weeks of the advisory board review.

1. The advisory board will make an impartial decision based on the provisions of the trust fund policy manual and the law and will provide to the applicant or individual, or if appropriate, the representative, a full written report of findings following the review.

2. In order to insure that the individual is afforded the

option of availing themselves of the opportunity to appeal decisions impacting their eligibility and/or receipt of services, adequate notification will include:

- a. the decision being reached;
- b. the basis for and effective date of the decision;
- c. the specific means for appealing the decision;
- d. the individual's right to submit additional evidence and information, including the individual's right to representation; and

e. the name and address of the program manager of the trust fund program. The program manager should be contacted in order to schedule an advisory board review.

Note: The advisory board review will complete the individual's avenue of appeal within the trust fund program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

§1913. Eligibility for Services

A. In order for an individual to be determined eligible for services, the individual:

1. must meet the definition of spinal cord injury or traumatic brain injury as defined;
2. must be a resident of Louisiana, citizen of the United States, officially domiciled in the state of Louisiana at the time of injury and during the provision of services;
3. must have a reasonable expectation to achieve a predictable level of outcome to achieve improvement in quality of life and/or functional outcome;
4. must have exhausted all other governmental and private sources;
5. must provide proof of denial from other sources;
6. must be willing to accept services from an advisory-board-approved facility/program;
7. must be medically stable;
8. must complete and submit appropriate application for services.

B. Eligibility decisions must be made without regard to sex, race, creed, color, disability, or national origin of the individual applying for services unless authorized by law to comply with the purposes of Act 654 of the 1993 Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

§1915. Ineligibility

A determination of ineligibility for services is made when:

1. the individual is medically unstable; or
2. the disabling condition is other than a spinal cord injury or traumatic head injury as defined; or
3. any of the other eligibility criteria are not met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

§1917. Fiscal

A. Expenditures on behalf of any one individual shall not exceed \$15,000 for any one 12-month period nor \$50,000 in

total expenditures.

B. All applicable state and departmental purchasing policies and procedures must be followed.

C. The trust fund will not purchase vehicles (automobiles, trucks, vans, etc.) or real estate.

D. Prior Written Authorization and Encumbrance. The proper authorizing document(s) must be written before the initiation or delivery of goods or services.

E. All monies that are collected for the Traumatic Head and Spinal Cord Injury Trust Fund Program are to be budgeted in the following fiscal year including but not limited to all monies collected and not expended from any and all prior calendar years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

§1919. Service Plan

A. Following a determination of eligibility for services, an appropriate individualized assessment will be completed to determine the scope of services. After a case-by-case assessment of needs, a service plan will be developed, implemented, and updated as appropriate. The service plan will be individualized and outcome oriented. The service plan will include as a minimum:

1. specific services to be delivered or rendered;
2. frequency of the service(s)—beginning and ending dates;
3. costs of services;
4. service provider.

B. The case record will include all updates and amendments to the service plan.

C. The individual or authorized representative must give informed written consent to the service plan and all amendments. The service plan will be presented by means understandable to the individual served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

§1921. Services

A. Services are authorized, coordinated and provided for eligible individuals in accordance with each person's service plan.

B. Services may include, but are not limited to:

1. evaluations;
2. post-acute medical care rehabilitation;
3. therapies;
4. medication;
5. attendant care;
6. equipment necessary for activities of daily living;
7. other goods and services deemed appropriate and necessary.

C. The trust fund will not provide experimental treatment/procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

§1923. Service Providers

A. All service providers must be approved by the advisory board.

B. Service providers will furnish bimonthly progress notes to the program manager to substantiate the need for continued provision of such service(s).

C. In-state programs/facilities will be given priority for approval as service providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

§1925. Conditions for Case Closure

An individual's case can be closed at any time in the process when it has been determined that the individual:

1. has an unstable medical condition;
2. has shown consistent failure to cooperate with the service plan;
3. reaches the maximum \$50,000 in total expenditures;
4. is eligible for other funding sources;
5. is not available for scheduled services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

§1927. Limitation of Liability

Members of the Louisiana Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board shall have limited liability as specified in R.S. 9:2792.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21: (November 1995).

Gloria Bryant-Banks
Secretary

9511#052

RULE

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

**Child Placing Agencies with/without Adoption Services
(LAC 48:I.Chapter 41)**

The Department of Social Services, Office of the Secretary, Bureau of Licensing, is amending the Louisiana Administrative Code, Title 48, Part 1, Subpart 3, Licensing, Chapter 41, Child Placing Agencies With and Without Adoption Services. This rule is mandated by R.S. 46:1401-1424.

TITLE 48

SOCIAL SERVICES

Office of the Secretary

Part I. General Administration

Subpart 3. Licensing

Chapter 41. Child Placing Agencies With and Without Adoption Services

§4101. Introduction

A. Legal Authority

1. The Child Care Facility and Child Placing Agency Act, 286 of 1985 as amended (R.S. 46:1401-1424) is the legal authority under which the Louisiana Department of Social Services, Office of the Secretary prescribes minimum standards for the health, safety and well-being of children placed in foster care and adoption. The rules are in the Louisiana Administrative Code Title 48, Chapter 41.

2. The Office of the Secretary was established within the Louisiana Department of Social Services to carry out as one of its functions the licensing function of the department.

4. Public Law 103-382, the Multiethnic Placement Act of 1994, the U.S. Constitution and Title VI of the Civil Rights Act of 1964 provide that an agency or entity which receives federal financial assistance and is involved in adoption or foster care placements may not discriminate on the basis of the race, color or national origin of the adoptive or foster parent or the child involved.

B. Definition of Terms Used

Adoption—the method provided by law to establish the legal and social relationship of parent(s) and child between persons who are not so related by birth with the mutual rights and obligations that exist between children and their birth parent(s).

Adoptive Home—a family household of one or more persons which has been approved by a licensed child placing agency to accept a child for adoption.

Agreement—a written contract that details mutual expectations of the parties involved in making agreements for twenty-four hour care of children.

Case-Plan—the goal-oriented, time-limited individualized program of action for a child and his family developed by the agency in cooperation with the parent(s), family foster home, and/or adoptive parent(s).

Child—a person who has not reached age 18 or otherwise been legally emancipated. The word *child* and *children* are used interchangeably in the text.

Child Care Committee—the Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies.

Child-Placing Agency or Agency—any institution, society, agency, corporation, facility, person or persons, or group engaged in placing children in foster homes or with substitute parents for temporary care or for adoption, but shall not mean a person who may occasionally refer children for temporary care.

Court—the court which granted custody, the court in whose jurisdiction the child is domiciled or the court in which an adoption petition is filed, depending on the context in which it is used.

Custodian—the person designated by a court of competent

jurisdiction legally responsible for a minor.

Department—the Department of Social Services.

Discipline—an educational process by which foster parent(s) assist children to develop the self control and self direction necessary to assume responsibilities, make daily living decisions, and learn to live in conformity to accepted levels of social behavior.

Engaged In—the acceptance of a child for placement in foster care or adoption or representation of the legal parent(s) in placement of a child in foster care or adoption.

Family Foster Home or Foster Home—a family household of one or more persons who provide continuing 24-hour substitute parenting for one to six clients living apart from their parent(s), guardian's, or relatives.

Foster Care—a social service that provides a planned period of substitute care in a family foster home for children when their families cannot or will not care for them.

Home Study—the joint assessment process entered into by the child placing agency and the family foster home or adoption home applicant for the purpose of determining the family's strengths and how they could best serve the children the child placing agency has available for placement.

Inspections—the on-site observation used to determine the licensee's continuing compliance to the licensing requirements.

Legal Custody—the relationship created by court order imposing on the custodian the responsibility of physical control of a child. Includes the duty to protect, train and discipline such child and to provide such child with food, shelter and education.

License—the document issued by the department in accordance with applicable provisions of the R.S. 46:1401-1424 after the effective date of these minimum requirements.

Multiethnic Placement Act or MEPA—is designed to: decrease the length of time that children wait to be adopted; prevent discrimination in the placement of children on the basis of race, color or national origin; and facilitate the identification and recruitment of foster and adoptive parents who can meet children's needs.

Office—the Office of the Secretary and the unit or section within the Office of the Secretary responsible for licensing child placing agencies.

Parent(s)—biological or legal parents prior to adoption.

Permanent Placement—a placement in a private family home for the specific purpose of effecting an adoption of the child by the prospective parents in that home or placement with a relative who expresses an intent to care for the child until majority.

Person—any individual, firm, partnership, joint stock company, business trust, voluntary association, society, corporation, or other form of business enterprises or incorporated or nonincorporated organization who receives children for placement into family foster homes or adoptive homes.

Placement—placement of a child in a foster or restrictive care facility.

Post-Adoption Services—interviewing, counseling and providing clinical and consultative services for the purpose of insuring permanence of the placement. Such services may be designed to treat problems which develop after the date of the

adoption decree at any point in the life cycle of the adoptive family and/or adoptee.

Provisional License—the document issued by the department to an agency that does not yet meet the minimum requirements for a child placing agency but is attempting in good faith to meet the minimum requirements and has provided an acceptable plan of correction.

Related—individuals within the following degrees of relationship whether by blood, half-blood, adoption, or marriage: parent, spouse, sibling, grandparent, uncle, aunt, niece, nephew, son, daughter, grandchild, and first cousin. This includes persons of preceding generations denoted by prefixes of "great" and also includes persons whose relationships is denoted by prefixes of "step."

Restrictive Care Facility or Facility—a staffed residence where children are in care apart from their parents, relatives or custodians on a continuing full time basis. It includes but is not limited to residential homes, group homes, emergency shelters, hospitals, maternity homes, juvenile detention centers, and all such restrictive care facilities licensed by the department.

Shall or Must—refers to a requirement which must be met for licensing.

Should—refers to a recommended policy which is suggested but not required for licensing.

Special Needs Placement—refers to placement for adoption of any child who because of physical or mental condition, race, age, membership in a sibling group, or special needs is considered difficult to place for adoption.

Substitute Family Care (SFC) or Residential Family Care (RFC)—an arrangement wherein both children and/or adults with specific handicapping conditions are placed in the private homes of persons not related, as defined above, to the client. Exception with regard to relatedness may be made subject to the approval of the appropriate program office. SFC and RFC must comply with the requirement 4101-4107; 4111-4113 (except for 4113 R); 4117-4123. However, if a child is involved in the placement the SFC or RFC must comply with 4109 also. Child is defined as anyone under the chronological age of 18 years.

Supervision—a process involving individual and/or group interviews to support the mutual adjustment of the child and family, to enable the agency to keep informed on the progress and well-being of the child in the foster or adoptive home and to help the family and child to obtain services that may be needed. Supervision begins on the date of placement or permanent placement and concludes on the date the child is returned to parent(s) except in court ordered supervision situations or on the date the adoption is finalized.

Therapeutic Family Foster Care or Alternate Family Care (AFC)—a family foster care program serving clients who need specialized treatment. The family foster home is comparable to a residential treatment program but in a family setting. Clients are placed in this program from restrictive care facilities or to prevent a restrictive care placement.

Therapeutic Family Foster Home—a treatment-based family foster home for youth who do not require hospitalization, institutionalization, or residential treatment, but need a structured, therapeutic and environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended by Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21: (November 1995).

§4103. Licensing Procedures

T. Appeal Procedure

1. Upon refusal of the department to grant a license or upon the written revocation of a license, the agency shall have a right to appeal such action by submitting a written request with reasons to DSS Appeals Bureau, P.O. Box 2944, Baton Rouge, Louisiana 70821 within 30 days after receipt of the notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended by Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21: (November 1995).

§4105. Administration and Organization

F. Responsibilities of the Advisory Committee

1. The advisory committee shall be kept informed of the operational policies and practices of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended by Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21: (November 1995).

§4107. Personnel

A. Policies and Practices

2. The agency shall have written policies regarding personnel practices conducive to recruitment, retention and effective performance of qualified personnel. These policies shall include:

B. Job Functions and Staff Qualifications

3. Child Placement Worker

a. The child placement workers shall be responsible for performing intake and placement services, providing casework or group work services for children and their families, doing home finding and assessment studies related to family foster homes and adoptive homes, planning and coordinating their services and resources affecting children and their families.

c. A child placement worker located in a branch office apart from the supervisor of placement services shall have a master's degree from an accredited School of Social Work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended by Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21: (November 1995).

§4109. Social Services Related to Child Placement

E. Selection of Home

1. The agency shall select the most appropriate form of care available for the child consistent with the child's and family's needs. In choosing such substitute care, the agency shall provide for any specialized services the child may need and make every effort to select the least restrictive and most appropriate placement setting.

2. The agency shall document any need to place a child in a family foster home that is outside a 100 mile radius of the agency unit responsible for the case plan for the child and parent.

4. The agency, when selecting a family foster or adoptive family may assess a child's racial, cultural, ethnic and religious heritage and preserve them to the extent possible without jeopardizing the child's right to care and a permanent placement. Agencies which receive federal assistance, however, may use race, culture, or ethnicity as factors in making placement decisions only insofar as the Constitution, MEPA, and Title VI permit. Placement of Indian children shall be made in accordance with the Indian Child Welfare Act.

J. Services to Parents

5. While the child is in placement, the agency shall assist the parent(s) with the problems and needs that brought about the need for placement and shall help the family gain access to services necessary to preserve and strengthen the family and to accomplish the case plan goals.

K. Services During Care

8. An individual health record shall be maintained on each child which shall include the following:

c. results of all medical examinations; laboratory test results shall be required.

L. Agency Services to Children in Restrictive Care Facilities

1. Selection of a Restrictive Care Facility

a. The agency with legal responsibility for a child shall document any need to place the child in a facility that is outside a 100 mile radius of the agency unit responsible for the case plan for the child and parent(s).

b. The agency shall refer for placement or place a child only in a Class "A" licensed facility.

c. The agency with legal responsibility for a child shall select an appropriate facility for the child by considering the following:

i. the child's level of development, social and emotional problems and why the child needs a group living experience;

ii. the parent/child relationship and the potential for parental participation in the program and visitation;

iii. the particular program and services and team approach that the restrictive care facility can make available. A statement of why a particular selection was made as the most appropriate for the child which addresses these factors shall be entered in the case record.

d. The agency shall select a facility that has the willingness and capacity to assist in the achievement of the goals for the child's case plan and shall involve the parent(s) in the selection of the facility to the maximum extent possible and in accordance with agency policy.

2. Placement Agreement with Restrictive Care Facility

a. The agency with legal responsibility for the child shall have a written agreement for each child with the facility which describes the following:

i. amount and frequency of contact the agency shall have with the child and the facility for supervision and case planning purposes;

ii. a plan for agency access to information on the child's care and development;

iii. the agency's participation in the ongoing evaluation of the child's needs and progress;

iv. the designation of responsibility for working with the child's parent(s) including visiting plans for the child's parents and family;

v. provisions for receiving copies of service plan reviews;

vi. frequency and nature of reporting between the agency and the facility while the child is in care;

vii. the financial plan for payment of care and fees covered;

viii. conditions under which the child will be discharged from the program; and

ix. designation of responsibility for after care.

3. Case Plan Review Responsibilities

a. The agency with legal responsibilities for the child shall maintain a case plan. The agency shall be involved in the development or revision of the case plan and shall assist in implementation as appropriate.

b. The agency with legal responsibility for the child shall complete or participate in a review of the case plan of the child in a facility placement at least every six months indicating progress.

N. Dissolution of Agency

1. When a child placing agency makes a decision to cease operation the agency shall provide for the following:

a. legal transfer or surrender and release of child(ren) in its custody;

b. appropriate transfer of responsibility for children in placement;

c. appropriate transfer or termination of services to all other clients;

d. transfer or storage of records with another licensed child placing agency within the state or the department and appropriate access to such records with notice to the

department as to what provisions have been made.

2. When the agency is closed by the department for any reason, including revocation or nonrenewal of license, the agency shall assist the department in arranging for the care, custody and control of any children currently in the custody and/or care of the agency and in arranging for the preservation of records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended by Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21: (November 1995).

§4111. Records

B. Parent(s) Records

1. The agency shall maintain a case record on the parent(s) of every child whom the agency places into care which contain:

i. signed agreements between the agency and parent(s) or custodian (for voluntary placements);

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended by Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21: (November 1995).

§4113. Family Foster Care Services

A. Foster Home Recruitment

2. Agencies shall engage in active recruitment of potential foster parent(s) who reflect the racial and ethnic diversity of children needing placement.

D. Foster Home Study

1. The agency home study shall address the following areas:

m. recommendations for number, age, sex, characteristics and special needs children best served by the family, and recommendations, regarding children who would not be appropriate for the family.

Q. Environmental, Health and Fire Safety

5. Interior Environment

g. The home shall have sufficient bedroom space to allow at least 75 square feet for individual occupant of a bedroom and an additional 55 square feet for each additional occupant.

i. Exceptions to the above requirements may be granted at the discretion of the placing agency when such exception is considered to present no risk to the foster children. Documentation for granting an exception shall be recorded in the case record.

ii. Agencies receiving federal funds may not use standards related to income, age, education, family structure and size or ownership of housing which exclude groups of prospective parents on the basis of race, color, or national origin, where these standards are arbitrary or unnecessary or where less exclusionary standards are available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended by Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21: (November 1995).

§4115. Adoption Services

A. Adoptive Home Recruitment

1. If recruitment is necessary to provide permanent homes which meet the needs of children in care, the agency shall have a written plan for ongoing recruitment of adoptive homes which includes the methods of recruitment, resources to be used, time-related goals for applicant recruitment, designated staff, and funding to implement the plan. Agencies shall engage in active recruitment of potential adoptive parents who reflect the racial and ethnic diversity of children needing placement.

L. Selection of an Adoptive Home

2. Selection of a family shall be based on four broad criteria:

c. The ability of the family to meet the needs of the child.

3. The following factors regarding selection of a family shall be carefully considered:

b. The agency, when selecting a family foster or adoptive family may assess a child's racial, cultural ethnic and religious heritage and preserve them to the extent possible without jeopardizing the child's right to care and a permanent placement. Agencies which receive federal assistance, however, may use race, culture, or ethnicity as factors in making placement decisions only insofar as the Constitution, MEPA, and Title VI permit. Placement of Indian children shall be made in accordance with the Indian Child Welfare Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended by Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21: (November 1995).

Gloria Bryant-Banks
Secretary

9511#055

RULE

Department of Social Services Office of the Secretary Bureau of Licensing

Crisis Intervention (LAC 48:I.Chapter 89)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, is amending the Louisiana Administrative Code, Title 48, Part 1, Subpart 3, Licensing.

This rule is mandated by R.S. 46:51. It is the intent of these standards to assure that crisis intervention service providers protect the treatment, safety, and well-being of children and vulnerable adults who present a behavioral and/or emotional crisis. Therefore, the Department of Social Services has developed these minimum licensing standards for crisis programs operating in this state. It is the policy of the state, through the use of these licensing standards, to insure the protection of all recipients of crisis intervention services and to encourage and assist in the improvement of these programs. It is the further intent of these standards to mandate proper training and supervision of personnel, to insure that only qualified and trained staff have direct client contact and to provide those agencies having such contact with a mechanism to be regulated.

Crisis Intervention Services provide crisis assessment, crisis de-escalation and referrals to those in emotional/behavioral crisis, which may include suicidal, homicidal, and/or severely disabling behaviors. Services may be available 24 hours a day, seven days a week and are usually staffed by crisis clinicians, social workers, and trained paraprofessionals. The service components may include, but are not limited to:

- a) identifying the need for and facilitating access to in-patient and out-patient mental health treatment services;
- b) providing one-to-one staff intervention to prevent harm to self or others;
- c) assisting in resolving acute interpersonal and family conflicts; and
- d) educating individuals and families in conflict identification and resolution strategies.

Crisis intervention services may be provided in conjunction with a number of other licensed services available to this client population. However, they are distinguished from and do not supplant those licensed services, which may include:

- a) residential care,
- b) in and out-of-home respite care,
- c) personal care attendant services,
- d) family support services,
- e) case management services, or
- f) medication management.

Crisis intervention staff provide support services to but do not replace or perform the responsibilities of parents or other primary care givers.

Title 48

SOCIAL SERVICES

Part I. General Administration

Subpart 3. Licensing

Chapter 89. Crisis Intervention

* * *

§8901. Purpose

The overall purpose of these regulations is the protection of the health, safety and well-being of persons served by crisis care providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.

HISTORICAL NOTE: Promulgated by Department of Social Services, Office of the Secretary, LR 21: (November 1995).

§8903. Procedures

A. Initial Application. Before beginning operation, it is mandatory to obtain a license from the Department of Social Services. To do so, the following steps should be followed:

1. Secure an application form issued by: Department of Social Services, Bureau of Licensing, P. O. Box 3078, Baton Rouge, LA 70821-3078. Phone: (504)922-0015.

2. A license will be issued on an initial application when the licensure inspection verifying compliance is completed and verification is received by the Bureau of Licensing.

3. When a provider changes location, it is mandatory to notify the Bureau of Licensing and program offices as appropriate. Additionally the provider must submit the processing fee to the bureau.

4. When a provider changes ownership, a new application and fee are required.

5. A license is valid for the period for which it is issued but may be revoked if the provider falls below minimum standards.

6. The department is authorized to determine the period during which the license shall be effective. A license is not transferable to another person or location.

7. If a director or member of his immediate family has had a previous license revoked or refused, upon re-application, applicant shall provide satisfactory evidence that the reason for such revocation no longer exists.

B. Fees

1. An application processing fee of \$25 is required to be submitted with all initial applications. This fee is to be paid by all providers. All fees are nonrefundable.

2. Other licensure fees:

a. Twenty-five dollar replacement fee for any provider replacing a license when changes are requested by the provider, i.e., change in provider location, name change, age range change;

b. five dollar processing fee for issuing a duplicate provider license with no changes.

C. Relicensing. The relicensing survey is similar to the original licensing inspection. The provider will have an opportunity to review any licensing deficiencies with the licensing specialist before it is submitted to the state office.

1. A license is issued for a period of no more than one year. Provider is totally responsible for applying for license renewal on an annual basis. Failure to reapply will result in nonrenewal of license.

2. If the licensure inspection reveals that the provider is not substantially meeting minimum requirements, a new license may not be issued.

3. The Department of Social Services shall be notified before changes are made which might have an effect upon the

license (for example, changes in age range, changes in location).

D. Inspections

1. It shall be the duty of the Department of Social Services through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice, all crisis care/intervention service providers.

2. Whenever the department is advised or has reason to believe that any person or agency or organization is operating a crisis intervention service without a license, the department shall make an investigation to ascertain the facts.

E. Waivers. The Office of the Secretary of the Department of Social Services shall have the authority to waive any of these standards for just cause provided the health and safety of the clients and/or staff are not in jeopardy. If it is determined that the provider or agency is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

F. Denial, Revocation, or Nonrenewal of License

1. An application for a license may be denied for any of the following reasons:

a. failure to meet any of the minimum standards for licensure;

b. conviction of a felony, as shown by a certified copy of the record of the court of conviction of the applicant;

i. or if the applicant is a firm or corporation, of any of its members or officers;

ii. or of any staff providing the crisis intervention or supervision of the clients.

2. A license may be revoked, or renewal thereof, denied, for any of the following reasons:

a. cruelty or indifference to the welfare of the children and adults;

b. violation of any provision of the minimum standards, rules, regulations, or orders of the Department of Social Services promulgated thereunder;

c. disapproval from any agency whose approval is required for licensure;

d. non payment of application processing fee or failure to submit a licensure application;

e. any validated instance of client abuse, corporal punishment, physical punishment, cruel, severe, or unusual punishment may result in revocation, denial or nonrenewal of the license if the owner is responsible or if the staff member who is responsible remains in the employment of the provider.

G. Appeal Procedure. If the license is refused or revoked because the provider does not meet minimum requirements for licensure, the procedure is as follows:

1. The Department of Social Services, by certified letter, shall advise the provider of the reasons for denial or revocation, and its right of appeal;

2. the provider/owner may appeal this decision by submitting a written request with the reasons to the Secretary of the Department of Social Services. Write to Department of Social Services, Appeals Section, P.O. Box 2994, Baton Rouge, LA 70821-9118. This written request must be post-marked within 30 days of the director/owner's receipt of the above notification in §8903.G.1;

3. the Appeals Bureau of the Department of Social Services shall set a hearing;

4. an appeal hearing officer of the Department of Social Services shall conduct the hearing. The Department of Social Services shall advise the appellant by certified letter of the decision, either affirming or reversing the original decision. If the license is denied or revoked, the provider shall terminate operation immediately;

5. if the provider continues to operate without a license, the Department of Social Services may file suit in the district court in the parish in which the provider is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.

HISTORICAL NOTE: Promulgated by Department of Social Services, Office of the Secretary, LR 21: (November 1995).

§8905. Organization and Administration

A. General Requirements

1. A provider shall allow designated representatives of DSS in the performance of their mandated duties to inspect all aspects of a provider's functioning which impact on clients and to interview any staff member or client (if the client agrees to said interview).

2. A provider shall make any information which the provider is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements available to DSS.

B. Governing Body

1. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the program/agency.

2. A provider shall have documents identifying all officers and members of the governing body, their addresses, and terms of membership.

3. When the governing body of a provider is comprised of more than one person, the governing body shall hold formal meetings at least twice a year.

4. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and bylaws specifying frequency of meetings and quorum requirements.

C. Responsibilities of a Governing Body. The governing body of a provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;

2. ensure the provider's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;

3. ensure that the provider is adequately funded and fiscally sound;

4. review and approve the provider's annual budget;

5. ensure the review and approval of an annual external audit;

6. designate a person to act as chief administrator and delegate sufficient authority to this person to manage the provider agency;

7. formulate and annually review, in consultation with the chief administrator, written policies concerning the provider's philosophy, goals, current services, personnel

practices, job descriptions and fiscal management;

8. annually evaluate the chief administrator's performance;

9. have the authority to dismiss the chief administrator;

10. meet with designated representatives of DSS whenever required to do so;

11. inform designated representatives of DSS prior to initiating any substantial changes in the services provided by the provider.

D. Accessibility of Executive. The chief administrator or a person authorized to act on behalf of the chief administrator shall be accessible to staff and designated representatives of DSS at all times.

E. Documentation of Authority to Operate. A private provider shall have documentation of its authority to operate under state law.

F. Administrative File. A provider shall have an administrative file including:

1. documents identifying the governing body;

2. list of members and officers of the governing body and their addresses and terms of membership;

3. minutes of formal meetings and bylaws of the governing body, if applicable;

4. documentation of the provider's authority to operate under state law;

5. organizational chart of the provider;

6. all leases, contracts and purchase-of-service agreements to which the provider is a party;

7. insurance policies: Every provider shall maintain in force at all times a comprehensive general liability insurance policy. This policy shall be in addition to any professional liability policies maintained by the provider and shall extend coverage to any staff member who provides transportation for any client in the course and scope of his/her employment;

8. annual budgets and audit reports;

9. master list of all contractors used by the provider.

G. Accounting

1. A provider shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records, in keeping with generally accepted accounting principles.

2. A provider shall demonstrate fiscal accountability through regular recording of its finances and annual external audit.

3. A provider shall not permit public funds to be paid, or committed to be paid, to any person or organization to which any of the members of the governing body, administrative personnel, or members of the immediate families of members of the governing body or administrative personnel have any direct or indirect financial relationship or interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the provider. The provider shall have a written disclosure of any financial transaction between the provider and other business entities in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

H. Confidentiality and Security of Files

1. A provider shall have written procedures for the

maintenance, security, and confidentiality of records. This shall include specifying who shall supervise the maintenance of records, and who shall have custody of records. This procedure shall also state to whom records can be released and the procedure for doing so. Records, including client as well as administrative, shall be the property of the provider and the provider, as custodian, shall secure records against loss, tampering, or unauthorized use.

2. Staff members of the provider shall not disclose or knowingly permit the disclosure of any information concerning the agency, the clients or his/her family, directly or indirectly, to any unauthorized person.

3. When the client is of majority age and noninterdicted, a provider shall obtain the client's written, informed permission prior to releasing any information from which the client or his/her family might be identified.

4. When a client is a minor or is interdicted, a provider shall obtain written, informed consent from the legally responsible person prior to releasing any information from which the client or his/her family might be identified.

5. A provider shall, upon written authorization from the client or his legal representative, make available information in the case record to the client, his counsel, or the client's legally responsible person. If, the provider reasonably concludes that knowledge of the information contained in the record would be injurious to the health or welfare of the client, or could reasonably be expected to endanger the life or safety of any other person, that provider may deny access to the record. The provider may charge a reasonable fee for copying the records.

6. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that names are deleted and other similar identifying information is disguised or deleted.

7. A provider shall not release a personnel file without the staff member's written permission except in accordance with state law.

I. Records - Administrative and Client

1. A provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

2. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws and requirements of the funding sources.

3. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

4. A provider shall have a written record for each client which shall include:

a. The name, sex, race, birth date of the client, home address, address of crisis location.

b. Other identification data including court status and/or legal status, name of parent or legal guardian, as appropriate.

c. The names, addresses and phone numbers of other persons or providers involved with the client's plan/case. This shall include the client's physician.

d. A provider shall document:

i. client's presenting problem, any known DSM IV diagnosis and medications;

ii. any other known serious health condition and medication.

e. Information and documentation of interventions used and case disposition, including progress notes as required in §8907.D.1.b.

f. Information and documentation concerning any injuries (regardless of cause), any violations of client safeguards, any suspected incidents of abuse/mistreatment/neglect, or any client grievances.

5. A provider shall have a written record for each staff member which includes:

a. the application for employment and/or résumés;

b. references (three);

c. any required medical examinations;

d. all required documentation of appropriate status which includes:

i. valid driver's license for operating provider vehicles or transporting clients;

ii. professional credentials/certification required to hold the position.

e. periodic, at least annual, performance evaluations;

f. staff member's starting and termination dates along with salary paid;

g. staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time;

h. documentation of criminal records check;

i. any reports or internal investigations concerning the staff member's involvement in any suspected abuse/mistreatment/neglect, violation of client safeguards, or violation of client rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.

HISTORICAL NOTE: Promulgated by Department of Social Services, Office of the Secretary, LR 21: (November 1995).

§8907. Program and Services

A. Program Description

1. A provider shall have a written program description describing:

a. the overall philosophy of the provider;

b. the long-term and short-term goals of the provider;

c. the types of clients best served by the provider;

d. there shall be written eligibility criteria for each of the services/programs provided;

e. the services provided directly or through subcontract by the provider;

f. a schedule for any fees for services which will be charged the client.

2. A provider shall make every effort to ensure that service and program planning for each client is a comprehensive process involving appropriate provider staff, representatives of other agencies, the client, and where appropriate the legally responsible person, and any other person(s) significantly involved in the client's care on an ongoing basis.

3. A provider shall perform crisis assessments to determine, as a minimum, the mental status of the individual

and their danger to self or others. Appropriate short term follow-up shall be included as part of the intervention. Documentation of this intervention shall be kept in the client's record.

4. There shall be written policies and procedures to assure the following client care safeguards:

- a. crisis workers shall not participate in discipline or punishment procedures;
- b. crisis workers shall not subject clients to verbal remarks which belittle or ridicule them, their families, or others;
- c. seclusion, defined as the placement of a client alone in a locked room, shall not be employed;
- d. passive physical restraint shall be employed only as a therapeutic intervention to protect the client from physical injury to self or others;
- e. restraining devices shall not be used in crisis interventions.

5. The provider shall have written policies and procedures to assure that any suspected violations of these safeguards are internally investigated and, where abuse or neglect is suspected, that immediate reports are made to the public agency statutorily authorized to investigate such alleged incidents.

B. Transportation

1. A provider shall ensure and document that any vehicle used by provider staff to transport clients is inspected and licensed according to state laws and carries a sufficient amount of current liability insurance.

2. Any staff member or the provider using a vehicle to transport clients shall be properly licensed to operate that vehicle according to state laws.

C. External Professional Service. A provider shall have a written policy which mandates that, when necessary, clients be given assistance in obtaining any required professional services not available from staff members of the provider.

D. Organizational Communication

1. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the client, including:

a. establishing procedures to assure periodic staff meetings with supervisory staff, professional staff, and direct line workers;

b. crisis workers doing one-to-one monitoring with a client will keep progress notes every half hour detailing the behavior of the client subsequent to the last entry. Progress notes will become part of the client's record. The client's record will be shared with the client's treating clinician, if applicable;

c. establishing a mechanism to assure the crisis worker's access to emergency services and/or an agency supervisor.

2. A provider shall establish procedures which facilitate participation and feedback from clients and families.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.

HISTORICAL NOTE: Promulgated by Department of Social Services, Office of the Secretary, LR 21: (November 1995).

§8909. Personnel

A. Staff Plan. A provider shall have a written plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members.

B. Nondiscrimination. A provider shall have a written policy to prevent discrimination and shall comply with all state and federal employment and service delivery laws and regulations pertaining to nondiscrimination.

C. Recruitment. A provider shall actively recruit and, whenever possible, employ qualified persons of both sexes representative of the cultural and racial groups served by the provider. This shall include the hiring of qualified persons with disabilities.

D. Education and Experience Requirements. Provider shall establish requisite education and experience qualifications for the crisis worker doing one-to-one intervention, which shall include:

1. a bachelor's degree in a human service related field (social work, psychology, counseling, criminal justice, education) and one year successful paid work experience with clients with emotional disorders; or,

2. a high school diploma with two years successful paid work experience with clients with emotional disorders; however,

3. the provider may elect to permit applicants who are parents of children with emotional disorders to substitute their year(s) of successful parenting experience for the requisite years of work experience;

4. provider shall establish requisite education and experience qualifications for crisis workers responsible for mental health assessments, which shall include:

a. a bachelor's degree in a human service related field (social work, psychology, counseling, criminal justice, education); and

b. two years successful paid work experience with clients with emotional disorders;

5. provider shall establish requisite education and experience qualifications for crisis workers responsible for clinical supervision of staff which shall include:

a. a valid Louisiana license in a mental health/counseling profession (board certified social worker, licensed professional counselor, licensed psychologist, physician, registered nurse); and

b. successful work experience with clients with emotional disorders.

E. Screening

1. Provider shall maintain documentation of satisfactory criminal record check, as required by R.S. 15:587.1, or documentation that an application for criminal record check has been made if no response has been received. A criminal records check shall be requested by the provider prior to the employment of any person who will have supervisory or disciplinary authority over clients.

2. Provider shall have a résumé or a record of employment history on each staff member.

3. Prior to employing any person, and upon obtaining a signed release and the names of the references from the applicant, a provider shall obtain three written references for

each prospective staff member or telephone notes from contact with said references.

4. A provider's screening procedures shall address the prospective staff member's qualifications, ability, related experience, health, character, emotional stability and social skills as related to the appropriate job description. Documentation shall be maintained in the personnel file.

F. Orientation. A provider's orientation shall provide a minimum of 18 hours of training for all crisis workers before direct contact with clients will begin. The training will include:

1. Twelve hours of training in crisis de-escalation and management of aggressive behavior, including passive physical restraints and acceptable and prohibited responses. Documentation of pre-service crisis training shall consist of a signed statement of the date(s), hours, method and content of curriculum trained and confirmation of the staff member's participation.

2. Six hours of orientation in provider's emergency and safety procedures, universal precautions, state law on client abuse and client rights, and provider's policies and procedures, including prohibited disciplinary responses. Documentation shall consist of a signed statement of the date(s), hours, and topics of the orientation and confirmation of the staff member's participation.

G. Training

1. A provider shall ensure that each crisis worker completes at least 40 hours of training per year. Orientation may be considered in meeting this requirement during the staff member's first year of employment. Routine supervision shall not be considered for meeting this requirement. This requirement may be fulfilled through documented individual consultation as well as group training sessions.

2. Direct service delivery staff members' annual training shall be documented by signed statements consisting of the dates, hours and content of the training, and confirmation of the staff members' participation. Curricula shall include:

- a. crisis de-escalation and aggression control management, including physical restraint;
- b. signs and symptoms of reactions to medication, especially psychotropic medication;
- c. psychotropic medications;
- d. major mental disorders of population served by program; description of disorders and treatment;
- e. universal precautions, HIV, and Hepatitis B;
- f. CPR course appropriate to client population, or yearly recertification in same;
- g. first aid and emergency medical procedures;
- h. client rights, mental health law, orders for protective custody, judicial commitments;
- i. mandated reporting of child/adult abuse per state law.

H. Evaluation. A provider's performance evaluation procedures shall address the nature, quality and effectiveness of a crisis worker's interactions with clients, family and other providers. Evaluations shall be completed at least annually.

I. Personnel Practices

1. A provider shall have written personnel practices and written job descriptions for each staff position including volunteers.

2. A provider shall have an employee grievance procedure which complies with federal and state law.

J. Abuse Reporting. A provider shall have abuse reporting procedures which require all staff members to report any incidents of suspected abuse or mistreatment whether that abuse or mistreatment is done by another staff member or professional, family member, the client, or any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.

HISTORICAL NOTE: Promulgated by Department of Social Services, Office of the Secretary, LR 21: (November 1995).

§8911. Client Rights and Grievance Procedure

A. A provider shall ensure that clients are provided all rights available to them, be they interdicted or not, and shall document same.

B. A provider shall make every effort to ensure that a client understands his/her rights in matters such as access to services, appeal, grievance, and protection from abuse.

C. A provider shall have a written grievance procedure for clients designed to allow clients to make complaints without fear of retaliation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.

HISTORICAL NOTE: Promulgated by Department of Social Services, Office of the Secretary, LR 21: (November 1995).

§8913. Glossary of Terms

Crisis—the subjective reaction to a stressful life experience that compromises the individual's and/or family's stability and ability to cope or function.

Crisis Assessment—exploration of the precipitating factors, description of current manifestations, identification of available resources, and development of a crisis response plan.

Crisis De-escalation—techniques for reduction in crisis manifestations and implementation of the crisis response plan.

Crisis Intervention—treatment which alleviates the impact of a crisis and helps mobilize the resources and improve the coping skills of those affected.

Crisis Intervention Service—services which provide assessment, de-escalation and referrals to those in emotional/behavioral crisis. This may include one-to-one intervention to prevent harm to self or others. These services may be available 24 hours a day, seven days a week and are usually staffed by crisis clinicians, social workers, and trained paraprofessionals.

Crisis Worker—professional or paraprofessional worker engaged in direct services delivery or in supervision of direct services delivery.

DSM IV—fourth edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

One-to-one Intervention—provision of staff, trained in verbal de-escalation and passive physical restraint, to a

person in crisis characterized by continuous visual contact, at a minimum, for a specified amount of time, for the purpose of preventing harm to self or others. These staff do not function as alternative care givers or supplant the existing care giver relationships.

Passive Physical Restraint—the least amount of direct physical contact required on the part of a staff member to prevent a client from harming self or others, and specifically excludes use of restraining devices.

Staff Member—staff members include the wage and hourly workers (consistent with Department of Labor guidelines) and independent contractors paid by the provider. Staff may be either administrative and clerical support workers or professional and paraprofessional workers engaged in direct service delivery. Due to the unpredictable nature of the demand for crisis services, crisis providers may need to employ independent contractors as staff members on an as-needed basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.

HISTORICAL NOTE: Promulgated by Department of Social Services, Office of the Secretary, LR 21: (November 1995).

Gloria Bryant-Banks
Secretary

9511#054

RULE

Department of Treasury Board of Trustees of the State Employees Group Benefits Program

Outpatient Prescription Drugs

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees has amended the Plan Document in order to avoid disruption or curtailment of services to state employees and their dependents who are covered by the State Employees Group Benefits Program.

The purpose, intent, and effect of these amendments are to remove the pre-existing condition limitations and coordination of benefits provisions from application to claims for outpatient prescription drugs.

The board has amended the Plan Document of Benefits for the State Employees Group Benefits Program in the following particulars:

Amendment Number One

Article 1, Section II, Subsection D is amended to redesignate paragraph 4 as paragraph 5, and to add a new paragraph, designated as paragraph 4, to read as follows:

4. Eligible outpatient prescription drug claims shall not

be subject to any pre-existing condition limitations.

Amendment Number Two

Article 3, Section IX, Subsection B, Paragraph 2 is amended to read as follows:

B. All benefits provided under Article 3, Comprehensive Medical Benefits, except for outpatient prescription drug claims, are subject to coordination of benefits.

James R. Plaisance
Executive Director

9511#035

RULE

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

Computation of Final Average Compensation (LAC 58:III)

Notice is hereby given that the Board of Trustees of the Teachers' Retirement System of Louisiana, pursuant to the notice of intent published August 20, 1995, and under authority contained in R.S. 11:701(5), adopted policies for the purpose of implementing Act 577 of the 1995 Regular Legislative Session as follows.

Title 58

RETIREMENT

Part III. Teachers' Retirement

Computation of Final Average Compensation

A. Members of the Teachers' Retirement System of Louisiana (TRSL) retiring on or after July 1, 1995, will have their average compensation (highest 36 consecutive or joined months of earnable salary) computed as follows:

1. Full 12-month periods beginning before July 1, 1995, will be calculated using the law in effect on the day the 12-month period begins;

2. Full 12-month periods beginning on or after July 1, 1995, will be calculated using the law in effect on July 1, 1995.

B. A full 12-month period of the highest 36 consecutive or joined months of earnable salary is defined to be months one through 12, or months 13 through 24, or months 25 through 36.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:701(5),

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 21: (November 1995).

James P. Hadley, Jr.
Director

9511#024

RULE

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

Deferred Retirement Option Plan (DROP) (LAC 58:III)

Notice is hereby given that the Board of Trustees of the Teacher's Retirement System of Louisiana, pursuant to the notice of intent published August 20, 1995, and under authority contained in R.S. 11:739 and R.S. 11:786-791, adopted amendments to the policies for implementation of the Deferred Retirement Option Plan as follows.

Title 58

RETIREMENT

Part III. Teachers' Retirement

Deferred Retirement Option Plan

*** * ***

5. Participation in DROP may not exceed a period of three consecutive years. In order to participate for the maximum three consecutive years, the member must begin DROP participation within 60 calendar days after the first possible eligibility requirement for participation is met (refer to policy one above). The participation period must end not more than three years and 60 calendar days from the date the member first became eligible to participate. The participation period may only be shortened by the participant's termination of employment or death.

In lieu of a participation period not to exceed the remainder of the three consecutive year period from date of first eligibility, a member who became eligible for DROP on or before January 1, 1994, may, at any time, select a participation period which may not exceed two consecutive years.

Notwithstanding any other provision of law to the contrary, any member who is participating in the three-year deferred retirement option plan, as set forth in R.S. 11:786(B), may continue to participate in the plan for an additional period of time which equals the difference between the actual participation of that member in that plan and the three year maximum term of participation, provided the member satisfies all of the following:

(1) on January 1, 1994, the member was not eligible for the full three year period, because of years of service credit or age requirements, or both;

(2) the member chose to participate in the three year plan for the maximum period available;

(3) the member is participating in the three year plan on June 30, 1995;

(4) the member furnishes written notice to the system prior to December 31, 1995, or the end of the participation period that the member initially selected, whichever date occurs first.

Any member of the Teachers' Retirement System of Louisiana who meets the above criteria, including the required written notice, will be allowed to extend their period of DROP participation through December 31, 1996.

*** * ***

19. Retirees who return-to-work under the provisions of R.S. 11:739 shall be governed by the following definition of "teaching experience:"

Any work experience which would have qualified the member for TRSL membership under the provisions of L.R.S. 11:701(23) if the experience had been gained in the Louisiana public education system will be considered "teaching experience." "Teaching experience" will include qualifying work (including work during DROP) in any recognized education setting, whether public or private, including both in-state and out-of-state locations. If the experience is not documented in the member's file, the member will be responsible for providing documentation from their previous employer in a timely manner. "Teaching experience" will not include TRSL service credit for unused leave, sabbatical leave, military service, leave without pay, furlough, strike time or similar credits.

AUTHORITY NOTE: Promulgated in accordance with 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended, LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21: (November 1995)

James P. Hadley, Jr.
Director

9511#025

RULE

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

**Daily Take, Possession and Size Limits
(LAC 76:VII.335)**

The Wildlife and Fisheries Commission does hereby amend a rule (LAC 76:VII.335.A.1 and G.1) reducing the bag limit and raising the minimum size limit for red snapper harvested recreationally, which is part of the existing rule for daily take, possession and size limits for Reef Fishes set by the commission. Authority for adoption of this rule is included in R.S. 56:6(25)(a) and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishery
§335. Daily Take, Possession and Size Limits Set by
Commission, Reef Fish**

A. The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations regarding the harvest of snapper, grouper, sea basses, jewfish, and amberjack within and without Louisiana's territorial waters:

SPECIES RECREATIONAL BAG LIMITS
1. Red Snapper 5 fish per person per day
* * *

G. SPECIES MINIMUM SIZE LIMITS
1. Red Snapper 14 inches total length (commercial)
15 inches total length (recreational)
* * *

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

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21: (November 1995).

Perry Gisclair
Chairman

9511#031

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21: (November 1995).

Peter Vujnovich
Acting Chairman

9511#030

RULE

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

Trail Rides (LAC 76:III.109)

The Wildlife and Fisheries Commission, at its regular meeting in November, hereby ratifies a rule governing trail rides and related activities on wildlife management areas and refuges. Authority is vested in the commission by Revised Statutes Title 56, Sections 109, 115, 752, 754, 763, 782, 785

**Title 76
WILDLIFE AND FISHERIES
Part III. State Game and Fish Preserves and Sanctuaries**

**Chapter 1. Responsibilities, Duties and Regulations
§109. Trail Rides on Wildlife Management Areas (WMAs)**

A. Organized trail rides are not consistent with the purpose and operations of wildlife management areas or refuges owned by the Department of Wildlife and Fisheries and/or state of Louisiana and shall not be permitted. No special permits or exemptions to existing rules shall be issued by the department for organized trail rides on wildlife management areas or refuges managed by the department under lease from other parties.

B. For the purposes of this rule, an *Organized Trail Ride* shall include but not be limited to:

1. any gathering where participants tender a fee or donation to any entity other than the department to participate in a group activity such as all terrain vehicle riding, horseback riding, or wagon riding; or
2. any event whose primary purpose is the use of trails that is advertised in any way to attract participants; or
3. any event involving the use of trails at which there are vendors selling commodities whether such commodities are sold for profit or not; or
4. any organized event or gathering of individuals involving any manner of conveyance or conveyances to be used on the WMA that causes excessive damage to roads, trails, or to the habitat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109, 115, 752, 754, 763, 782 and 785.

RULE

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

Turkey Hunting 1996

In accordance with the notice of intent published in the July, 1995 *Louisiana Register*, the Wildlife and Fisheries Commission at its regular monthly meeting in November hereby ratifies its regulations on open hunting season dates, bag limit, methods of taking, and rules and regulations on department operated wildlife management areas for turkeys. Authority to establish regulations are vested in the commission by Section 115 of Title 56 of the Revised Statutes of 1950. A synopsis of season dates follows and made part of this rule along with the complete copy of the regulations.

Resident Game Birds and Animals
(Shooting Hours - one-half hour before sunrise to one-half hour after sunset)

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	3/season

Turkey Hunting Schedule

Area	Season Dates
A	March 16 - April 21
B	April 6 - April 21
C	March 16 - March 24

1996 Turkey Hunting Season Schedule

Daily limit one gobbler, three gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys are illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited.

Turkey baiting is hereby defined as the placing or distributing of harvested grain such as, but not limited to, corn, wheat or milo in such a manner so as to constitute a lure or attraction to any area where hunters are attempting to take turkeys.

A person shall be deemed to be hunting over bait if he is in the act of hunting (calling or in a blind) within 100 yards of a baited site. A baited site is only and specifically that immediate area where bait is deposited.

Any area where a hunter or hunters are found hunting or attempting to take turkeys over bait during the open turkey hunting season shall be immediately closed to hunting by posting signs circumscribing the bait site by a distance of 100 yards in all directions from the bait site. The signs shall read "Posted--Baited Area--Closed to Hunting". The area shall remain closed until all bait has been removed and for 15 days afterward.

The Department of Wildlife and Fisheries strongly discourages "feeding" agricultural grains to wild turkeys as this practice increases the risk of the birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

Beginning with the 1996 Turkey Season, all licensed turkey hunters will be required to have a Louisiana Wild Turkey stamp in their possession while turkey hunting, in addition to their basic and big game licenses. Money derived from stamps sales will be dedicated to projects that benefit wild turkeys in Louisiana.

Turkey Hunting Season

Open only in the following areas:

Area A

March 16-April 21

(Formerly Areas A & B).

All of the following parishes are open:

East Baton Rouge, East Feliciana, Grant, Livingston, Natchitoches, Rapides, Sabine, St. Helena, St. Tammany, Tangipahoa, Washington, Vernon, West Baton Rouge, West Feliciana (including Raccourci Island).

Portions of the following parishes are also open:

Allen: North of La. 26 from DeRidder to the jct. of La. 104 and north of La. 104.

Ascension, Assumption, Iberville: North of La. 70 from La. 1 to the East Atchafalaya Basin Protection Levee, east of the east protection levee northward to I-10, south of I-10 from its jct. with the east protection levee at Ramah to La. 1, south and west of La. 1 from I-10 to La. 70. Also, that portion of Iberville Parish lying north of I-10 EXCEPT see Sherburne for special season on all state, federal and private lands within Sherburne's boundaries.

Avoyelles: That portion bounded on the east by the Atchafalaya River northward from Simmesport, on the north by Red River to the Brouillette Community, on the west by La. 452 from Brouillette to La. 1, on the south by La. 1, eastward to Simmesport, EXCEPT that portion surrounding Pomme de Terre WMA, bounded on the north, east and south by La. 451, on the west by the Big Bend Levee from its jct.

at the Bayou des Glaise structure east of Bordelonville southward to its jct. with La. 451.

Beauregard: North of La. 26 east of DeRidder, west of Hwy. 171 from the jct. of Hwy. 26 south to Calcasieu Parish.

Calcasieu: West of U.S. 171 north of I-10 and north of I-10 from the jct. of U.S. 171 to Texas State line.

Caldwell: West of Ouachita River southward to Catahoula line, east and north of La. 126 and south and west of La. 127.

Catahoula: West of Ouachita River southward to La. 559 at Duty Ferry, north of La. 559 to La. 124, south and west of La. 124 from Duty Ferry to La. 8 at Harrisonburg and north of La. 8 to La. 126, north and east of La. 126. ALSO that portion of Catahoula listed below.

Catahoula, Concordia, East Carroll, Franklin, Madison, Richland and Tensas: East of U.S. 65 from the Arkansas line to U.S. 80, south of U.S. 80 westward to La. 17, east of La. 17 and La. 15 from Delhi to Winnsboro to Clayton; west of U.S. 65 from Clayton to jct. of La. 128, north of La. 128 to St. Joseph; west and north of La. 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands in East Carroll, Tensas and Madison Parishes lying east of the main channel of the Mississippi River.

Evangeline: North and west of La. 115, north of La. 106 from St. Landry to La. 13, west of La. 13 from Pine Prairie to Mamou and north of La. 104 west of Mamou.

LaSalle: All lands lying west of La. 127 from the Caldwell Parish line to the jct. of La. 124, south of La. 124 to the jct. of La. 124 and La. 126, west of La. 126 to the jct. with La. 503, north of La. 503 to Summerville, west of La. 127 from Summerville to Little River. Also that portion of land east of La. 126 from the Caldwell Parish line to the Catahoula Parish line.

Pointe Coupee: All EXCEPT that portion bounded on the west by La. 77 and La. 10, northward from U.S. 190 to La. 1 at Morganza, on the north and east by La. 1 to its jct. with La. 78 and by La. 78 from Parlang to U.S. 190.

St. Landry, Upper St. Martin: Those portions bounded on the north by U.S. 190, west by the West Atchafalaya Basin Protection Levee, south by the Southern Natural Pipeline from the west guide levee south of Catahoula to its jct. with the Atchafalaya River - Whiskey Bay Channel northward to I-10. Also that portion of St. Martin lying north of I-10, EXCEPT, see Sherburne WMA for special season dates on all state, federal, and private lands within the Sherburne boundaries. Also that portion of the parish bounded on the north by La. 10 from the West Atchafalaya Guide Levee to Burton's Lake, on the east by Burton's Lake, on the south by Petite Prairie Bayou to its jct. with the Old O.G. Railroad right of way, then by the O.G.R.R. right of way westward to U.S. 71 and the West Atchafalaya Guide Levee to its jct. with La. 10.

Winn: Only that portion within the boundaries of National Catahoula Wildlife Management Preserve.

Area B

April 6-April 21

(Formerly Area D)

All of the following parishes are open:

Bienville, Bossier, Claiborne, Lincoln, Red River, Webster
Portions of the following parishes are open:

Caddo: That portion north of La. 2 from Texas line to U.S. 71, east of U.S. 71 from La. 2 to I-20, south of I-20 from U.S. 71 to U.S. 171, and east of U.S. 171 to the DeSoto Parish line.

DeSoto: That portion east of U.S. 171 from the Caddo Parish line to U.S. 84 and south of U.S. 84 from U.S. 171 to the Texas line.

Jackson: West of Parish Road 243 from Lincoln Parish line to Parish Road 238, west and south of Parish Road 238 to La. 144, west of La. 144 to La. 34, west of La. 34 to Chatham, north of La. 146 from Chatham to La. 155, north of La. 155 to La. 542, north of La. 542 to Quitman, north of La. 155 to Bienville parish line.

Morehouse: West of U.S. 165 from the Arkansas line to Bonita, north and west of La. 140 to jct. of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, north of U.S. 165 from Bastrop to Ouachita Parish line.

Union: West of Bayou DeLoutre from Arkansas line to La. 33, west and north of La. 33 to La. 15 west of D'Arbonne Lake, west of La. 15 to La. 145, north of La. 145 to Downs ville and Lincoln Parish line.

Area C

March 16-March 24
(Formerly Area E)

Portions of the following parishes are open:

Avoyelles: That portion surrounding Pomme de Terre WMA, bounded on the north, east, and south by La. 451, on the west by the Big Bend levee from its jct. at the Bayou des Glaise structure east of Bordelonville southward to its jct. with La. 451.

Concordia: North and east of Old River (Deer Park) from State line northward to Deer Park Road, north of Deer Park Road to Mississippi River Levee, east and north of Mississippi River levee to Tensas Line.

Tensas: East and south of Mississippi River Levee northward from Concordia parish line to Hwy. 3078. South of Hwy. 3078 (Port Gibson Ferry Road) to Mississippi River.

**1996 Wildlife Management Area
Turkey Hunting Regulations**

General

The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

Consult the 1995-96 Hunting Regulations Pamphlet for more detailed rules and regulations governing the Wildlife Management Areas.

Only those Wildlife Management Areas listed are open to turkey hunting.

All trails and roads designated as *ATV Only* shall be closed to ATVs from March 1 through June 1. ATV off-road or trail travel is prohibited. Walk-in hunting only (bicycles permitted).

Bag limits on WMAs are a part of your season bag limit. The bag limit for turkeys on Wildlife Management Areas shall be one per area, not to exceed 2 per season for all

WMAs. The bag limit for turkeys is one gobbler per day and three gobblers per season including those taken on WMAs.
Permits

Self-clearing Permits: All turkey hunts, including lottery hunts, are self-clearing and all hunters must check in daily by picking up a permit from a self-clearing station. Upon completion of each daily hunt, the hunter must check out by completing the hunter report portion of the permit and depositing it in the check out box at a self-clearing station before exiting the WMA.

Lottery Hunts: Dewey Wills, Georgia-Pacific, Loggy Bayou and Sherburne WMAs are restricted to those persons selected as a result of the pre-application Lottery. Deadline for receiving applications is January 31, 1996. Application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any District office for applications. Hunters must abide by self-clearing permit requirements. Hunters on these areas must have their turkey checked and validated at the appropriate stations prior to leaving the area.

Requests for information on WMA regulations, permits, lottery hunt applications and maps may be directed to any district office: [District 1-P.O. Box 915, Minden, 71055, Phone (318) 371-3050]; [District 2-368 Century Park Drive, Monroe, 71203, Phone (318) 343-4044]; [District 3-1995 Shreveport Hwy., Pineville, 71360, Phone (318) 487-5885]; [District 4-P.O. Box 426, Ferriday, 71334, Phone (318) 757-4571]; [District 5-1213 North Lakeshore Drive, Lake Charles, 70601, Phone (318) 491-2575]; [District 6-105 Avenue of the Acadians, Opelousas, 70571-0585, Phone (318) 948-0255]; or [District 7-P.O. Box 98000, Baton Rouge, 70898-9000, Phone (504) 765-2360].

Wildlife Management Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bens Creek	March 16-April 7	Self-Clearing	None
Big Lake	March 16-March 24	Self-Clearing	None
Bodcau	April 6-April 21	Self-Clearing	None
Boeuf	March 16-March 24	Self-Clearing	None
Boise Vernon	March 16-April 7	Self-Clearing	None
Camp Beauregard	March 16-March 31	Self-Clearing	None
Dewey Wills	March 16-March 24	Self-Clearing	March 16-17 March 18-20
Fort Polk	March 16-April 21	Self-Clearing	None
Georgia-Pacific	April 6-April 14	Self-Clearing	April 6-7 April 8-10
Grassy Lake	March 16-March 24	Self-Clearing	None
Jackson-Bienville	April 6-April 21	Self-Clearing	None
Little River	March 16-March 31	Self-Clearing	None
Loggy Bayou	April 6-April 14	Self-Clearing	April 6-7 April 8-10

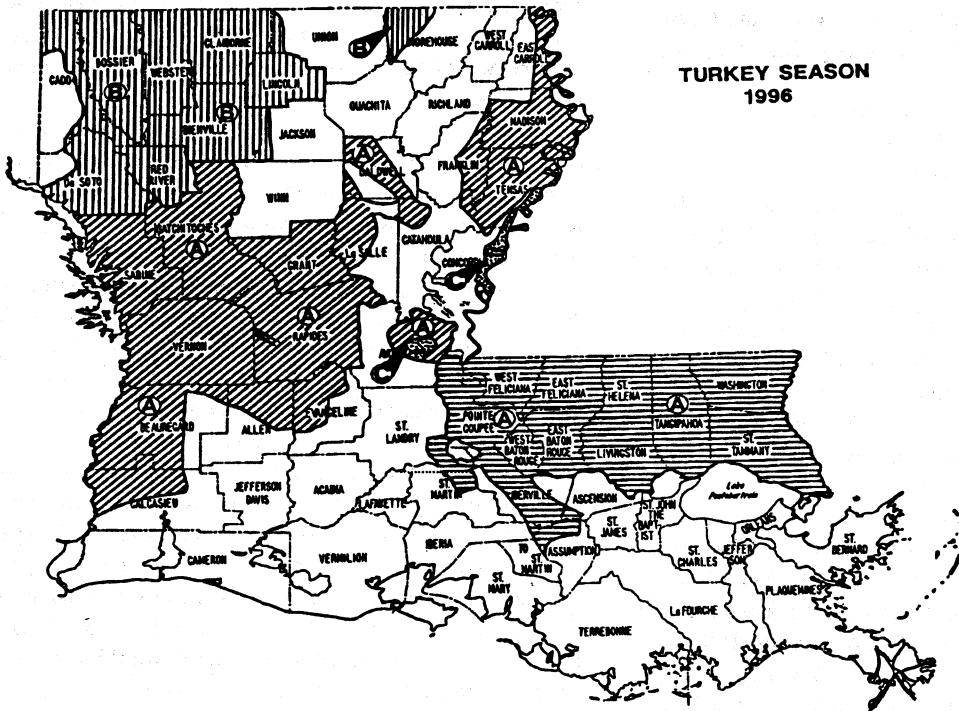
Pearl River	March 16-March 31	Self-Clearing	None
Peason Ridge	March 16-April 21	Self-Clearing	None
Pomme de Terre	March 16-March 24	Self-Clearing	None
Red River	March 16-March 24	Self-Clearing	None
Sandy Hollow	March 16-April 7	Self-Clearing	None
Sherburne	March 16-March 24	Self-Clearing	March 16-17 March 18-20
Three Rivers	March 16-March 24	Self-Clearing	None
Tunica Hills	March 16-March 31	Self-Clearing	None

* Only those Wildlife Management Areas listed shall have a turkey hunting season. All other areas are CLOSED.

** The deadline for receiving applications for all turkey lottery hunts on WMAs is January 31, 1996.

Volunteer Turkey Weigh and Check Stations

In an effort to better manage Louisiana's turkey population, volunteer weigh and check stations are located throughout the state at local sporting good stores, grocery stores and hunting clubs. Scales and data sheets are located at the stations for your convenience. Please have your turkey weighed and measured at one of these stations. By recording your turkey, you automatically are eligible for one of three shotguns to be given away in the early summer. Contact your local district office for a location near you.



CITATION: None - changes annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21: (November 1995).

Glynn Carver
Vice-Chairman

9511#036

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Disaster Service Leave; Hearing Appeals (Rules 11.23.3 and 13.19)

The State Civil Service Commission will hold a public hearing on Wednesday, December 6, 1995 to consider adopting proposed Rule 11.23.3 and amending Civil Service Rule 13.19(b). The public hearing will begin at 9 a.m. in the Commission Hearing Room at the Department of State Civil Service, Second Floor, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

Consideration will be given to the following:

Proposed Rule 11.23.3

11.23.3 Voluntary Disaster Service Leave

A full-time probationary or permanent employee may be granted time off without loss of pay, annual leave, compensatory leave, or sick leave, for a period not to exceed 15 work days in any calendar year, to participate in American Red Cross relief services in Louisiana for disasters designated at Level III or above in the American Red Cross regulations and procedures. Such employees must have received a certification from the American Red Cross as a trained disaster volunteer. All such requests must be made in writing to the appointing authority.

Explanation

Act 455 of the 1995 Regular Session of the Legislature provides for paid leave for voluntary leave of absence for public employees who participate in specialized disaster relief services for the American Red Cross. Proposed Rule 11.23.3 allows such leave, at the discretion of the appointing authority, who is not required to grant it if he/she determines that it would pose a hardship on the agency.

Red Cross-designated Level III and above disasters have occurred approximately 11 times in Louisiana from July 1, 1991 to the present. Local chapters of the American Red Cross can be contacted concerning the training required to qualify as a "trained disaster volunteer."

Act 455 states the following:

A qualified employee shall notify his appointing authority of his desire for leave as soon as practicable following a disaster within Louisiana for which his services are needed by a Louisiana unit of the American Red Cross. All such requests shall be made in writing and shall include all of the following:

1. certification by the employee that he is a trained disaster volunteer;
2. the nature and location of the disaster to which he is to respond;
3. the anticipated duration of his leave;
4. the type of service he is to provide to the American Red Cross;

5. the identity and title of the official of the American Red Cross unit who will be supervising him;

6. a written request for the employee's services from an official of the American Red Cross.

The employee shall be restored to his previous position upon giving notice to the appointing authority 24 hours prior to his return to work, provided that the employee submit written certification from the supervising official of the American Red Cross unit for which the employee has served, showing the number of hours of service rendered.

If this rule proposal is adopted by the Civil Service Commission, the above requirements will be published in the State Personnel Manual.

Amend Rule 13.19(b)

13.19 Procedure for Hearing Appeals

(b) Legal Representation

1. Except as is provided below, a party may be represented by an attorney licensed to practice law in Louisiana or by a law student who has satisfied the requirements of Rule 20 of the rules of the Supreme Court of Louisiana.

2. (Effective on a date to be determined by the commission at a scheduled December 6, 1995 meeting) no attorney or law student who is a classified state employee may represent another state employee in an appeal. This provision shall not apply to any appeal in which the state classified attorney/law student made an appearance on behalf of an employee before the effective date of this section.

3. When a party is represented by more than one attorney/law student, only one such representative shall be permitted to examine the same witness.

Explanation

Civil Service Rule 13.19(b) currently allows a party in a Civil Service appeal to be represented by an attorney licensed to practice law in Louisiana or, under certain circumstances, a law student. The proposed amendment would prohibit an attorney or a law student who is a state classified employee from representing another employee in a Civil Service appeal. (The proposed amendment would also update the procedure for allowing law students to represent parties in an appeal.)

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the director of State Civil Service, Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Herbert L. Sumrall
Executive Director

9511#038

NOTICE OF INTENT

Department of Culture, Recreation and Tourism Office of State Museum

Admission Fees (LAC 25:III.105)

The Department of Culture, Recreation and Tourism, Office of State Museum, proposes to amend the following rule relative to admission fees to state museum buildings, per authority of R.S. 25:342. The purpose of the amendment is to establish an admission fee structure for the Wedell-Williams Aviation Museum in Patterson, LA, which was acquired by the Office of State Museum by legislative action during the 1995 legislative session. There is no change to the existing fees for the museum's buildings in New Orleans.

TITLE 25

CULTURAL RESOURCES

Part III. Office of State Museum

Chapter 1. Public Access

§105. Admission Fees

A. - D....

E. Admission fees for the Wedell-Williams Aviation Museum in Patterson, Louisiana are:

1. All admissions for persons over 12 years of age—\$2; Children under 12 years of age—free.

2. School groups—free. Must be affiliated with a recognized public or private school system and be accompanied by one chaperone per every 10 children, these chaperones are admitted free. Additional chaperones will be required to pay admission fee. Prefer arrangements to be made in advance by calling (504)395-7067.

F. From time to time, as deemed appropriate by the assistant secretary, special promotional admission fees may be offered in order to encourage visitation during times of special programs, events, or during the state's tourism slow periods. These special promotional offers will be in effect for a short specified time not to exceed 30 days, and will not be extended. No fee increases of any kind will be imposed under this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 11:1137 (December 1985), amended LR 13:82 (February 1987), LR 20:784 (June 1994), LR 22:

Written comments may be addressed to James F. Sefcik, Assistant Secretary, Department of Culture, Recreation and Tourism, Box 2448, New Orleans, LA, 70176-2448.

James F. Sefcik
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Admission Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs (savings) as a result of this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

As a result of this rule change, it is anticipated that the Office of State Museum will generate an additional \$10,000 of self-generated revenues annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individual patrons/visitors (over 12 years of age) to the Wedell-Williams Aviation Museum will be required to pay \$2 admission fee (this is not an increase from the fee previously charged when under the control of St. Mary's Parish). Children under 12 will be admitted free.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rules change adds the Wedell-Williams Aviation Museum to the state museum system but will not affect competition since the fee will remain the same as charged by St. Mary's Parish when in control of the museum.

James F. Sefcik
Assistant Secretary
9511#098

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Licensing Board for Contractors

Residential Construction (LAC 46:XXIX.1501-1509)

At its meeting on September 28, 1995, the State Licensing Board for Contractors made a motion which unanimously passed to adopt the following rules.

TITLE 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXIX. Contractors

Chapter 15. Residential

§1501. Definitions

A. All individuals bidding or performing the work of a general contractor on a residential project the cost of which equals \$50,000 or more must be licensed under the classification "residential construction." It shall not include individuals who build no more than one residence for their own use per year.

B. A subcontractor, architect or engineer who acts as a residential building contractor as defined in R.S. 37:2150.1(9) must possess a residential construction license.

C. "Cost of a project" includes the value of all labor, materials, subcontractors, general overhead and supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2173.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 22:

§1503. Requirements

A. All residential building contractors shall work in the name which appears on the official records of the State Licensing Board for Contractors for the current license.

B. If a licensed general residential contractor assigns a contract, or any portion of a contract, in the amount of \$50,000 or more to another general residential contractor, the person or firm to which it is assigned, and/or who performs the work must possess the proper current license. No unlicensed contractor shall be permitted to assign a contract, or any portion of a contract, in the amount of \$50,000 or more to a licensed contractor in circumvention of the laws of the State of Louisiana.

C. All applications for a residential contractors license shall contain the information required on the forms which are available at the offices of the State Licensing Board for Contractors, 7434 Perkins Road, Baton Rouge, Louisiana 70808. Application shall be time dated when received and shall be reviewed by the Residential Contractors Licensing Board Subcommittee prior to being submitted to the Contractors Licensing Board at the next regularly scheduled meeting of the board, provided the application is completed with all of the information requested thereon, along with a financial statement, fees, certificate of workers compensation insurance, certificate of general liability insurance in the minimum amount of \$100,000, properly notarized and provided all examination requirements have been met.

D. Workers compensation and general liability insurance, obtained from an insurer authorized to sell those forms of insurance coverage in the state, shall be maintained continuously by residential building contractors. Insurance certificates evidencing current workers compensation and general liability insurance shall be submitted with each new application, every renewal application, and upon the renewal date of coverage. In the event of a lapse of insurance coverage, a cease and desist order shall be issued and such lapse shall be grounds for suspension or revocation of the license after proper hearing.

E. The qualifying party for each applicant must pass any examinations required and administered by the State Licensing Board for Contractors.

F. The qualifying party shall be an individual owner, an original incorporator, partner, member or shareholder, or an employee of the applicant who has been in full-time employment for 120 consecutive days immediately preceding the application. Any licensed residential building contractor may have more than one qualifying party.

G. All licensed residential builders shall take and pass all examinations required to change or add a nonresidential classification or subclassification.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2150-2173.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 22:

§1505. Exceptions

A. An applicant for a residential building contractor's license who can show written proof that he possessed a contractors license for building construction as required by R.S. 37:2150-2164 prior to February 1, 1996 shall not be required to take the examinations required by the State Licensing Board for Contractors, but shall meet all other requirements for such license.

B. An applicant who can show written proof that he holds a residential construction license issued by a local

municipality issued prior to February 1, 1996 that administered a test written by a national testing company, approved by the State Licensing Board for Contractors, shall be exempt from taking the examinations required by the board, but shall meet all other requirements for such license.

C. An applicant seeking an exemption from the examinations required by the State Licensing Board for Contractors for having been actively engaged in residential building construction prior to February 1, 1996 as stated in R.S. 37:2167(D)(3) and (4) shall, in addition to all other requirements for licensure:

1. submit copies of the required building permits to the State Licensing Board for Contractors with the application; and

2. submit requests for any exceptions or other special requests in writing to the State Licensing Board for Contractors Residential Subcommittee.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2150-2173.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 22:

§1507. Violations

A. The State Contractors Licensing Board Residential Subcommittee has the authority to conduct hearings on alleged violations by residential building contractors in accordance with the provisions of R.S. 37:2158.

B. The State Contractors Licensing Board Residential Subcommittee shall make recommendations to the Contractors Board regarding their findings and determinations as a result of the hearings on said alleged violations.

C. Residential building contractors whose alleged violations were heard by the subcommittee and a recommendation rendered may request to appear at the next regularly scheduled board meeting, or at any other board meeting where their alleged violations are brought before the board for final action, and shall be given an opportunity to address the board regarding the subcommittee's recommendation.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2150-2173.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 22:

§1509. Penalties

A. The subcommittee has the authority to issue, suspend, modify or revoke residential contractors licenses, subject to the final approval of the State Licensing Board for Contractors.

B. In accordance with the provisions of R.S. 37:2172, the subcommittee shall have the authority to issue a fine not to exceed \$500 for each violation, for the causes listed in R.S. 37:2158, subject to final approval by the State Contractors Licensing Board.

C. In addition to or in lieu of any of the penalties provided in this Chapter, the subcommittee is empowered to issue a cease and desist order. Further, the subcommittee may seek the other civil remedies provided in R.S. 37:2162 for violations of this Chapter, subject to the final approval of the State Licensing Board for Contractors.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2150-2173.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 22:

Interested persons may submit written comments to Joy Evans, Administrator, State Licensing Board for Contractors, Box 14419, Baton Rouge, LA 70898. Comments will be accepted through the close of business on December 20, 1995.

Joy Evans
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Residential Construction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation costs to state governmental units is \$191,798 for the fiscal year January 1 - December 31, 1996.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

We estimate a total of 1,000 applicants as of February 1, 1996, each paying a \$100 license fee which would total \$100,000. We estimate 800 licensed contractors who would come under a "grandfather clause" in Act 638 which was passed during the 1995 Legislative Session paying \$100 per license which would amount to an additional \$80,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no cost other than the \$100 license fee charged to contractors who apply to perform residential construction. New applicants are given written examinations and charged a \$50 fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment of the general public or the department as a result of the implementation of these rules.

Joy Evans
Administrator
9511#037

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Real Estate Commission**

Adjudicatory Proceedings (LAC 46:LXVII.4707)

Notice is hereby given that the Real Estate Commission will consider the following amendments and changes to the existing rules and regulations of the agency: LAC 46:LXVII, Subpart 1, Chapter 47, Investigations and Hearings.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

**Chapter 47. Investigations and Hearings
§4707. Adjudicatory Proceedings**

When, as a result of an investigation, it appears that violations of the Louisiana Real Estate License Law may have been committed by a licensee, registrant or certificate holder, the violations may be adjudicated through informal or formal adjudicatory proceedings.

1. Informal Adjudicatory Proceedings

a. The complaint may be concluded informally without public hearing on the recommendation of the hearing examiner and the concurrence of the executive director.

b. A preliminary notice of adjudication will be issued to advise the respondent of the violation or violations alleged and to advise the respondent that the matter can be resolved informally should the respondent desire to admit to committing the act or acts specified and submits a written request that the matter be resolved informally.

c. A hearing officer will be appointed by the executive director to conduct an informal hearing with the respondent.

d. The informal hearing will be attended by the case investigator, who will respond to questions concerning the investigation which resulted in the allegations, and the hearing examiner, who will inform the hearing officer of the administrative, jurisdictional, and other matters relevant to the proceedings. No evidence will be presented, no witnesses will be called and no formal transcript of the proceedings will be prepared by the commission. Statements made during the informal proceedings may not be introduced at any subsequent formal adjudicatory proceedings without the written consent of all parties to the informal hearing.

e. If the informal hearing results in an admission by the respondent that violations were committed as alleged, the hearing officer may enter into a recommended stipulations and consent order to include the imposition of any sanctions authorized by the Louisiana Real Estate License Law. In the written document the respondent must stipulate to having committed an act or acts in violation of the license law or the rules and regulations of the commission, accept the sanctions recommended by the hearing officer, and waive any rights to request a rehearing, reopening, or reconsideration by the commission, and the right to judicial appeal of the consent order.

f. If at the informal hearing the respondent does not admit to having committed the act or acts specified, does not accept the sanctions recommended by the hearing officer, or does not waive the specified appellate rights, the alleged violations will be referred to the commission along with a recommendation for a formal adjudicatory hearing.

g. If the respondent does execute a stipulations and consent order, the executive director shall submit the document to the commission at the next regular meeting for approval and authorization for the executive director to execute the consent order in the name of the commission.

h. The actions of the commission relative to all consent orders shall be noted in the minutes of the meeting at

which the consent order is approved and authorization is granted to the executive director to execute the order in the name of the commission.

I. Any consent order executed as a result of an informal hearing shall be effective on the date approved by the commission.

j. Repeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and R. S. 37:1453.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), amended LR 22:

Interested parties may submit written comments until 4:30 p.m., December 20, 1995, to Stephanie C. Fagan, Communications Specialist, Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4785 or 9071 Interline Avenue, Baton Rouge, LA.

J. C. Willie
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Adjudicatory Proceedings**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

J. C. Willie
Executive Director
9511#097

John R. Rombach
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Real Estate Commission**

**Compensation
(LAC 46:LXVII.3103)**

Notice is hereby given that the Real Estate Commission will consider the adoption of revisions to the existing rules

and regulations of the agency, specifically LAC 46:LXVII. Chapter 31, Compensation.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Chapter 31. Compensation

§3103. Sponsored Licensees

Associate brokers and salespersons shall not accept a commission or valuable consideration for the performance of any act herein specified or for performing any act relating thereto, from any person, except their sponsoring or qualifying broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

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

Interested parties may direct inquiries and present their views in writing to the commission through December 20, 1995. Contact Stephanie C. Fagan, Communications Specialist, Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4785.

J. C. Willie
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Compensation**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs (savings).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed language protects real estate brokers in that it prohibits licensees from accepting compensation from any person other than their qualifying or sponsoring broker when providing services related to a real estate license. Effectively, this protects the general public in that it limits the source of expenses, thereby reducing the possibility of duplicate, fraudulent, or erroneous costs.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

J. C. Willie
Executive Director
9511#095

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Real Estate Commission

Names on Licenses, Registrations and Certificates;
Tradenames; Symbols and Trademarks
(LAC 46:LXVII.Chapter 21)

Notice is hereby given that the Real Estate Commission will consider the adoption of the following amendments and changes to the existing rules and regulations of the agency: LAC 46:LXVII, Subpart I, Chapter 21, Names on Licenses, Registrations, and Certificates; Tradenames; Symbols; and Trademarks.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Chapter 21. Names on Licenses, Registrations, and Certificates; Tradenames; Symbols; and Trademarks

§2101. Names on Licenses, Registrations and Certificates

All licenses, registrations and certificates issued by the Louisiana Real Estate Commission will be issued in the name of the legal entity of the applicant.

1. Licenses, registrations and certificates issued to individual real estate brokers, real estate salespersons, timeshare registrants, and real estate school instructors will be issued in the name of the individual person.

2. Licenses, registrations and certificates issued to any corporation or partnership for any purpose will be issued in the identical name of the corporation or partnership as registered with the secretary of state, except as indicated in Section 2101.3. No license, registration or certificate will be issued to any corporation or partnership not registered with the secretary of state.

3. The name of any broker or salesperson whose real estate license has been revoked by the commission, with the revocation becoming final and effective on or after February 1, 1995, which in any way represents that the former broker or salesperson is licensed by the commission to conduct real estate activities requiring licensing in Louisiana, shall not be utilized on any license issued by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:398 (October 1977), amended LR 4:479 (December 1978), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 22:

§2103. Tradenames

Licenses, registrations and certificates issued by the commission will not indicate a tradename of the licensee, registrant or certificate holder unless the tradename is registered with the secretary of state and a copy of the registration is on file at the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of

Commerce, Real Estate Commission, LR 3:398 (October 1977), amended LR 4:479 (December 1978), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 22:

§2105. Symbols and Trademarks

A. Licensees, registrants and certificate holders are prohibited from using any symbol or trademark in connection with any license, registration or certificate issued by the commission without first registering the symbol or trademark with the secretary of state and placing a copy of the registration on file with the commission.

B. Repeal

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December, 1989), amended LR 22:

§2107. Transitional Licensing and Registration of Documents

Repeal

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:398 (October 1977), amended LR 4:479 (December 1978), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 22:

Interested parties may submit written comments until 4:30 p.m., December 20, 1995, to Stephanie C. Fagan, Communications Specialist, Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4765 or 9071 Interline Avenue, Baton Rouge, LA.

J. C. Willie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Names on Licenses, Registrations, and Certificates; Tradenames; Symbols; and Trademarks

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

J. C. Willie
Executive Director
9511#096

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 746—Child Welfare and Attendance
Supervisor Certification**

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, the following revisions to the certification requirements for Supervisor of Child Welfare and Attendance. This is an amendment to *Bulletin 746, Louisiana Standards for State Certification of School Personnel.*

Supervisor of Child Welfare and Attendance and/or Visiting Teacher

The applicant must hold a valid Type A Louisiana teaching certificate.

The applicant must hold a master's degree from a regionally accredited institution, including 15 semester hours of professional education at the graduate level as follows:

Principles of guidance and counseling.....	3 semester hours
Supervision of child welfare and attendance and/or visiting teacher work.....	3 semester hours
School law.....	3 semester hours
Social psychology.....	3 semester hours
Psychology of child growth and development or human growth development.....	3 semester hours

Social workers licensed under R.S. 37:2701 et seq., shall be certified as visiting teachers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

Interested persons may submit comments on the proposed policy until 4:30 p.m., January 9, 1996 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 746—Child Welfare and Attendance Supervisor Certification

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

The adoption of this proposed rule will cost the Department of Education approximately \$600 (printing and postage) to disseminate the policy. BESE's

estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

The proposed rule will have no effect on revenue collection.

**III. ESTIMATED COSTS AND/OR ECONOMIC
BENEFITS TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs to directly affected persons or nongovernmental groups. The proposed rule will result in a revision and a reduction in the number of courses required for this certification endorsement from a total of 24 semester hours to 15 semester hours.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

Since the proposed rule will revise and reduce the number of courses required for this certification endorsement, an increase in the number of certified supervisors of child welfare and attendance is anticipated.

Marilyn Langley
Deputy Superintendent
Management and Finance
9511#063

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1943—Teacher Assessment

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, in order to be in conformity with R. S. 17:3882(6)(a), Act 60 of the Regular Session of the 1995 Louisiana Legislature, approved for advertisement, amendments to *Bulletin 1943, Policies and Procedures for the Louisiana Teacher Assessment* as listed below:

Section III: Applicability and Timelines

A. Delete "assessment teachers, librarians, counselors, speech therapists"
Revised A. will now read:

New teachers subject to this assessment program, as specified by Act 1 of the 1994 Third Extraordinary Session of the Louisiana Legislature, include general education teachers, vocational education teachers, special education teachers, and "any person employed as a full-time employee of a local board who is engaged to directly and regularly provide instruction to students."

Section IV: Glossary

New Teacher

Delete "including a librarian, an assessment teacher, a

speech therapist, and a counselor",

New Teacher will now read:

New teachers—any full-time employee of a local board who is engaged to directly and regularly provide instruction to students in any elementary, secondary, or special education school setting, one who is not an administrator and who is employed for the first time in a public school in this state after August 1, 1994; and one who holds a regular teaching certificate which when issued was valid for three years, or who is authorized under law or board regulation to teach temporarily while seeking a regular teaching certificate.

AUTHORITY NOTE: R. S. 17:17:3882(6)(a), Act 60 of R. S. 1995.

HISTORICAL NOTE: LR 22:

Interested persons may submit comments until 4:30 p.m., January 9, 1996 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1943—Teacher Assessment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated costs for FY 95-96 are for printing pages 2 and 5 of the *Policies and Procedures for Louisiana Teacher Assessment*, Bulletin 1943, (\$224 at the state level and none at the local level).

In addition, copies will be mailed to all public school principals and one copy will be mailed to each superintendent, to the Louisiana Teacher Assessment Program Contact Person for the central office, to all assessor trainers, and assessors. Postage costs are estimated at \$1,623.40 to mail copies of page 2 and 5 of the *Policies and Procedures for Louisiana Teacher Assessment*, Bulletin 1943.

Contingent on revisions being made to Bulletin 1943, the estimate for printing and mailing the revisions in FY 96-97 is \$3,000.

The proposed change in the rule will result in approximately 20 assessment teachers, librarians, counselors, and speech therapist not being assessed statewide. This will result in a savings of approximately \$1,580 per assessment for a total savings of approximately \$31,600 per year.

The SBESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available.

There could be an estimated cost reduction to the extent the Local Education Agencies do not have to form assessment teams.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Assessment teachers, librarians, counselors, and speech

therapists will not participate in the Louisiana Teacher Assessment Program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The printing of pages 2 and 5 of the *Policies and Procedures for Louisiana Teacher Assessment*, Bulletin 1943 does not affect competition.

Marlyn Langley
Deputy Superintendent
for Management and Finance
9511#062

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners of Professional Counselors

General Provisions (LAC 46:LX.Chapters 1-17)

The Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby intends to amend and reenact the following rules governing the practice of mental health counseling in the state of Louisiana and repeal LAC 46:LX.1103.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Louisiana Licensed Professional Counselors Board of Examiners

Chapter 1. General Provisions

§101. ...

§103. Description of Organization

The Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred to as the board, resides in the Department of Health and Hospitals, and consists of seven members, who shall be residents of the state of Louisiana. Each term shall be for four years. Appointments to the board shall be made by the governor from a list of qualified candidates submitted by the executive board of the Louisiana Counseling Association. Each appointment by the governor shall be submitted to the Senate for confirmation. Board membership shall consist of three licensed professional counselors, three educators who are licensed professional counselors and whose function is the training of mental health counselors in accredited programs, and one individual from the public at large. The professional membership of the board shall be licensed under this Chapter. No board member shall serve more than two full consecutive terms. No board member shall be liable in any civil action for any act performed in good faith in the execution of his duties under Chapter 13 of Title 37.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:82 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of

§105. Vacancies

Any vacancy occurring in board membership for an unexpired term shall be filled for the remainder of the term by the governor, within 30 days, from a list of qualified candidates submitted by the executive board of the Louisiana Counseling Association. Unexpired terms shall be filled by appointment by the governor, within 30 days, from a list of qualified candidates prescribed in Section 1104 of R.S. 37:1101-1115.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:82 (February 1988), amended by Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 22:

Chapter 3. Board Meetings, Procedures, Records, Powers, and Duties

§301.-307. ...

§309. Quorum

Four members of the board shall constitute a quorum of the board at any meeting or hearing for the transaction of business and may examine, approve, and renew the license of applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:82 (February 1988), amended by Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 22:

§311. ...

§313. Code of Ethics

The board has adopted the Code of Ethics of the American Counseling Association, as specified in R.S. 37:1105(D) and may adopt any revisions or additions deemed appropriate or necessary by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 22:

Chapter 5. License and Practice of Counseling

§501. ...

§503. Definitions

A-C. ...

D. *Practice of Mental Health Counseling*—rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which include but are not limited to:

1. *Mental Health Counseling*—assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and

careers.

a. *Mental Health Counseling Practicum*—licensure requires the completion of a mental health counseling practicum totaling 100 clock hours. The practicum includes:

i. a minimum of 40 hours of direct counseling with individuals or groups;

ii. a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or supervisor working under the supervision of a program faculty member;

iii. a minimum of one and one-half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements established by the university.

b. *Mental Health Counseling Internship*—licensure requires the completion of a mental health counseling internship totaling 300 clock hours. The internship includes:

i. a minimum of 120 hours of direct counseling with individuals or groups;

ii. a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or an LPC working in conjunction with the faculty member;

iii. a minimum of one and one-half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements by the university.

2.-4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 16:302 (April 1990), LR 18:51 (January 1992), LR 22:

Chapter 7. Requirements for Licensure

§701. ...

§703. Licensing Requirements

A.1.-6. ...

7. has declared special competencies and demonstrated professional competence therein by passing a written and, at the discretion of the board, an oral examination as shall be prescribed by the board;

8. has received a graduate degree the substance of which is professional mental health counseling in content from a regionally accredited institution of higher education offering a master's and/or doctoral program in counseling that is approved by the board and has accumulated at least 48 graduate semester hours as part of the graduate degree plan containing the eight required areas, the supervised mental health practicum and supervised internship in mental health counseling as defined by rules adopted by the board listed under Chapter 5.

a. The following eight areas are required to have at least one semester course:

- i. counseling/theories of personality;
- ii. human growth and development;
- iii. abnormal behavior;
- iv. techniques of counseling;
- v. group dynamics, processes, and counseling;
- vi. lifestyle and career development;
- vii. appraisal of individuals;
- viii. ethics.

b. The following two areas are encouraged for inclusion in graduate training:

- i. substance abuse;
- ii. marriage and family studies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 18:269 (March 1992), LR 22:

§705. Supervision Experience

A. Supervision Requirements

1. ...

2.a. To be eligible for supervision as a counselor intern, the applicant must provide proof of a supervised mental health counseling practicum/internship and completion of seven of the nine listed content areas, as follows:

- i. counseling/theories of personality;
- ii. human growth and development;
- iii. abnormal behavior;
- iv. techniques of counseling;
- v. group dynamics, processes, and counseling;
- vi. lifestyle and career development;
- vii. appraisal of individuals
- viii. substance abuse;
- ix. marriage and family studies.

b. Beginning August 15, 1996, to be eligible for supervision as a counselor intern, the applicant must provide proof of completion of a supervised practicum and internship as listed in §503. Definitions, Subsection D.1.a-b (listed above) and all of the following eight content areas as follows:

- i. counseling/theories of personality;
- ii. human growth and development;
- iii. abnormal behavior;
- iv. techniques of counseling;
- v. group dynamics, processes and counseling;
- vi. lifestyle and career development;
- vii. appraisal of individuals;
- viii. ethics.

c. If a counselor intern commences supervision prior to August 15, 1996 pursuant to §705.A.2.a above, the counselor intern must complete all of the eight content areas pursuant to R.S. 37:1107(B), in order to be eligible for licensure upon completion of the supervised internship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 18:269 (March 1992), amended LR 21:466 (May 1995), LR 22:

Chapter 8. Renewal of License

§801. Renewal

A licensed professional counselor shall renew his license every two years in the month of June by meeting the requirement that 25 clock hours of continuing education be obtained prior to each renewal date every two years in an area of professional mental health counseling as approved by the board and by paying a renewal fee. The licensee will also submit a current copy of his declaration statement at each renewal period. The chairman shall issue a document renewing the license for a term of two years. The license of any mental health counselor who fails to have this license renewed biannually during the month of June shall lapse; however, the failure to renew said license shall not deprive said counselor the right of renewal thereafter. A lapsed license may be renewed within a period of two years after the expired renewal date upon payment of all fees in arrears and presentation of evidence of completion of the continuing education requirement and a current copy of his/her declaration statement. Application for renewal after two years from the date of expiration will not be considered for renewal; the individual must apply under the current licensure guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 18:271 (March 1992), amended LR 22:

§803. ...

Chapter 9. Fees

§901. General

A. The board shall collect the following fees stated in R.S. 37:1106.

1. Registration of Supervision	\$ 75
2. Application, License and Seal	\$200
3. Renewal of License	\$100
4. Late Fee for Renewal	\$ 50
5. Reissue of License (duplicate)	\$ 25
6. Name Change on Records	\$ 25
7. Copy of LPC File	\$ 25
8. Copy of Any Documents	Cost incurred

B. Late fee will be incurred the day after renewal deadline 4 p.m. (no grace period). If deadline falls on a weekend, the next working day will be the deadline at 4 p.m. (no exceptions). No part of any fees shall be refundable under any conditions. All fees for licensing must be paid to the board by certified check or money order. The board may assess all costs incurred in connection with disciplinary actions including, but not limited to, investigators', stenographers', and procedural hearing officers' fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:82 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 15:545 (July 1989), LR 18:51 (January 1992), LR 22:

§903. ...

Chapter 11. Reciprocity

§1101. States, Territories, and Commonwealths

Upon application accompanied by fee and without written or oral examination, as stated in R.S. 37:1109, the board may issue a license to any person who furnishes upon a form and in such manner as the board prescribes, evidence satisfactory to the board that he is licensed, certified, or registered as a professional counselor by another state, territorial possession of the United States, District of Columbia, or Commonwealth of Puerto Rico if the requirements for such licensure, certification, or registration are substantially equivalent to those of R.S. 37:1101-1115.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:84 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 22:

§1103. Certification by a National Certification Board Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:84 (February 1988), repealed by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 22:

Chapter 13.-15. ...

Chapter 17. Exclusions

§1701. ...

§1703. Exemptions

A. A certified school counselor who meets the standards prescribed by the State Department of Education and the Board of Elementary and Secondary Education, while practicing school counseling within the scope of his employment by a board of education or by a private school. Nothing herein shall be construed to allow such persons to render mental health counseling services to the public unless they have also been licensed under the provisions of R.S. 37:1107.

B. Any nonresident temporarily employed in this state to render mental health counseling services for not more than 30 days a year, who meets the requirements for licensure in R.S. 37:1107 or who holds a valid license and certificate issued under the authority of the laws of another state.

C. Any student in an accredited education institution, while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a professional mental health counselor. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained.

D. Any persons licensed, certified, or registered under any other provision of the state law, as long as the services rendered are consistent with their laws, professional training, and code of ethics, provided they do not represent themselves as licensed professional counselors or mental health counselors, unless they have also been licensed under the provisions of R.S. 37:1107.

E. Any priest, rabbi, Christian Science practitioner, or minister of the gospel of any religious denomination,

provided they are practicing within the employment of their church or religious affiliated institution and they do not represent themselves as licensed professional counselors or mental health counselors unless they have also been licensed under the provisions of R.S. 37:1107.

F. Any person with a master's degree in counseling while practicing mental health counseling under the board-approved supervision of a licensed professional counselor. The supervisee must use the title "counselor intern" and shall not represent himself to the public as a licensed professional counselor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:85 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors LR 15:545 (July 1989), LR 22:

Persons who wish to submit comments should write to: Peter Emerson, Ed.D., LPC, Board Chairman, LA LPC Board of Examiners, 4664 Jamestown Avenue, Suite 125, Baton Rouge, LA 70808-3218. Comments will be accepted through December 10, 1995.

Peter Emerson, Ed.D., LPC
Board Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General Provisions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated implementation costs or savings to other state or local government as a result of these rules. Implementation costs will be \$4,150 year one, 0 year two, and 0 in year three.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of other state or local governmental units. Effect on revenue collections for this board will be \$1,725 in year one, \$3,975 in year two and \$6,225 in year three.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The only individuals affected by costs will be those who license. Fees charged are listed below:

1. Registration of Supervision	\$ 75
2. Application for License	200
3. Renewal of License	100
4. Late Fee for Renewal	50
5. Reissuance of Duplicate License	25
6. Name Change	25
7. Copy of File	25

 Late fee will be incurred the day after renewal deadline (no grace period). The only two changes in fee structure are: (1) persons applying for licensure will pay a \$200 fee separate from the \$75 fee paid for registration of supervision (2) anyone wishing to have a file copied will be charged \$25.
There are no costs and/or economic benefits which will directly affect other persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND

EMPLOYMENT (Summary)

There could be marginal effect on competition in the private sector. Exempt private sector agencies and individuals are listed in R.S. 37:1113(1)-(6). All public sector employees are exempt from R.S. 37:1101-115.

Peter Emerson, Ed.D., LPC
Board Chair
9511#060

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Clinical Laboratory Personnel (LAC 46:XLV.Chapter 111)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1311-1329 and 37:1270(A)(5), and the provisions of the Administrative Procedure Act, and on the recommendation of the Clinical Laboratory Personnel Committee constituted under R.S. 37:1314, intends to adopt rules governing the investigation of complaints, reports and information evidencing legal cause under the Louisiana Clinical Laboratory Personnel Law for the suspension, revocation, imposition of probation on or other disciplinary action against persons holding licenses, certifications or permits under the Louisiana Clinical Laboratory Personnel Law and the initiation of formal enforcement proceedings and adjudication of administrative complaints by the Clinical Laboratory Personnel Committee and the Louisiana State Board of Medical Examiners. LAC 46:XLV, Subpart 5, Chapter 111, §§11101-11145.

The full text of these proposed rules may be obtained from Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth in the paragraph below and from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA (504)342-5015.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Medical Examiners, Box 30250, New Orleans, LA 70190-0250, or at 630 Camp Street, New Orleans, LA 70130. 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: Clinical Laboratory Personnel

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

It is not anticipated that the proposed rules of procedure will result in costs or savings to any state or local governmental unit, including the Board of Medical Examiners and the Clinical Laboratory Personnel Committee.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

It is not anticipated that the proposed rules of procedure will have any material effect on the revenue collections of any state or local governmental unit, including the Board of Medical Examiners and the Clinical Laboratory Personnel Committee.

**III. ESTIMATED COSTS AND/OR ECONOMIC
BENEFITS TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

It is not anticipated that the proposed rules of procedure will result in any costs and/or economic benefits to directly affected persons, including licensed or certified clinical laboratory personnel, or governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The proposed rules are not anticipated to have any impact on competition and employment in either the public or private sector.

Delmar Rorison
Executive Director
9511#105

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Physician Assistants Licensing, Certification and Practice
(LAC 46:XLV.Chapters 15 and 45)**

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B)(6) and 37:1360.23(D), (F), and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend its rules governing the certification and practice of physician assistants, LAC 46:XLV, Subpart 2, Chapter 15, §§1501-1519, Subpart 3, Chapter 45, §§4501-4515, to conform such rules to the statutory law providing for the licensing and regulation of practice of physician assistants, as amended by Acts 1993, No. 662, and Acts 1995, No. 879, R.S. 37:1360.21-1360.38.

The full text of these amendments may be obtained from

Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth in the paragraph below and from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA (504)342-5015.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Medical Examiners, Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans, LA 70130). Written comments must be submitted to and received by the board within 60 days of from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Physician Assistants Licensing, Certification
and Practice**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed rule amendments will result in costs or savings to the Board of Medical Examiners or any state or local governmental unit.

**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 material effect on the revenue collections of the Board of Medical Examiners or of any state or local governmental unit.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

It is not anticipated that the proposed rule amendments will result in any costs and/or material economic benefits to directly affected persons, including applicants for physician assistant licensure, supervising physicians, or governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The proposed rule amendments are not anticipated to have any material impact on competition and employment in either the public or private sector. In implementing statutory amendments permitting employment of physician assistants by health care provider entities other than physician-owned groups, the rule amendments may, to an extent that is not quantifiable, serve to increase competition in the market for employment of physician assistants.

Delmar Rorison
Executive Director
9511#104

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Physicians and Surgeons—Licensing
(LAC 46:XLV.301-431)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Board of Medical Examiners, pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and the provisions of the Administrative Procedure Act, intends to amend its rules governing the licensure of physicians and surgeons (LAC 46:XLV.301-431).

The full text of this proposed rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Inquiries concerning the proposed amendments may be directed in writing to: Delmar Rorison, Executive Director, Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing, to the Board of Medical Examiners, Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130). Written comments must be submitted to and received by the board within 60 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Physicians and Surgeons—Licensing**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed rule amendments will result in costs or savings to the Board of Medical Examiners or any state or local governmental unit.

**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 material effect on revenue collections of the Board of Medical Examiners or of any state or local governmental unit.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

It is not anticipated that the proposed rule amendments will result in any costs and/or economic benefits to directly affected persons, including applicants for medical licensure, licensed physicians, or governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendments are not anticipated to have any impact on competition and employment in either the public or private sector.

Delmar Rorison
Executive Director
9511#099

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Optional Targeted Case Management Services—Reimbursement

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing, is proposing to adopt the following rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The Bureau of Health Services Financing reimburses optional targeted case management services for the following specific population groups: 1) mentally retarded or developmentally disabled individuals; 2) developmentally disabled infants and toddlers; 3) high-risk pregnant women (limited to the metropolitan New Orleans area); 4) HIV infected individuals; 5) seriously mentally ill individuals. In addition reimbursement is provided under the Home and Community-Based Services Waiver Program for case management services provided to participants in the Home Care for the Elderly Waiver.

The department adopted emergency rules which enhanced program requirements by setting uniform standards for case management services delivered to the above-referenced populations and specified the reimbursement methodology based on the provision of a 15-minute unit of service for the on-going services component of case management services. These rules were adopted effective July 22, 1994 and August 13, 1994 (*Louisiana Register*, Volume 20, Numbers 6 and 7). Subsequent emergency rulemaking continued this initiative in force as published in the *Louisiana Register*, (November 20, 1994, Volume 20, Number 11; April 20, 1995, Volume 21, Number 4 and August 20, 1995, Volume 21, Number 8). The department has determined that it is necessary to discontinue the unit of service reimbursement methodology and to institute a monthly rate based on the minimum standards for service delivery appropriate for each population group. The following rule proposes to repeal the unit of service reimbursement methodology for the on-going services component of case management services contained in the emergency rules cited above and to adopt a monthly reimbursement rate for both components of case management services; the initial assessment/service plan development and the ongoing services. However this proposed rule also provides for the following two exceptions: 1) both payment

methods, assessment fee and the monthly rate for on-going services, are retained for the high-risk pregnant women group; and 2) assessments prior authorized for the MR/DD and the seriously mentally ill populations through September 30, 1995 and completed by October 31, 1995 are reimbursable in accordance with the payment methodology in effect prior to October 1, 1995. Monthly reimbursement rates are assigned for each population group based upon minimum standards for service delivery for each population group.

Proposed Rule

The Department of Health and Hospital, Office of the Secretary, Bureau of Health Services Financing repeals the reimbursement methodology contained in the emergency rule entitled "Optional Targeted Case Management Services" adopted on July 15, 1995 (*Louisiana Register*, Volume 21, Number 8) and adopts the following minimum program standards and reimbursement methodology governing the reimbursement for optional targeted and waiver case management services.

I. General Provisions

A. All reimbursement for optional targeted and waiver case management services shall be made in accordance with all applicable federal and state regulations.

B. The reimbursement rate for optional targeted and waiver case management services is a monthly rate for the provision of mandated monthly minimum services. It is not a capitated rate. Service hours provided in different months that are less than the minimum standard shall not be rolled up in order to meet the minimum standards for service delivery required for reimbursement. Providers shall not bill for failed attempts to make contact with either consumers or collaterals.

C. Billed case management services shall be monitored through the use of provider record review, consumer survey for verification of services provision and quality of service, and verification with collaterals of contacts made on behalf of the recipient. Any situation involving fraud and/or abuse in the provision of case management services will be referred to the SURS Unit for investigation. A subsequent referral will be made to the State Attorney General's Medicaid Fraud Control Unit by the SURS Unit if a criminal investigation is warranted.

D. The following minimum program standards are required for the reimbursement of Case Management Services

1. Seriously Mentally Ill Individuals

a. A minimum of four hours of documented case management services in each month in which services are billed. The four hours must include one face-to-face contact with the consumer in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring.

b. Services shall be authorized for a maximum six-month time period. All services must be documented on the CAMIS service log and be entered into CAMIS. Weekly submission of CAMIS data is required.

c. The procedure code applicable to case management services for this population is Z0090 and the monthly payment rate is \$223.

2. Mentally Retarded/Developmentally Disabled

Individuals

a. A minimum of three hours of documented case management services in each month in which services are billed. The three hours must include one face-to-face contact with the recipient in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring. Two home visits are required in a six-month period. Service provider records for MR/DD waiver participants must be monitored by the case management agency on a quarterly basis.

b. Services shall be authorized for a maximum six-month time period. All services must be documented on the MRCAMIS service log and be entered into MRCAMIS. Weekly submission of MRCAMIS data is required.

c. The procedure codes applicable to case management services for the MR/DD population is Z0092 for waiver participants and Z0091 for non-waiver participants. The monthly payment rate is \$147 for both groups of the MR/DD population.

3. Developmentally Disabled Infants and Toddlers

a. A minimum of two hours of documented case management services in each month in which services are billed. The two hours must include one face-to-face contact with the recipient in addition to case management activities such as assessment/service plan development/update, linkage to services and follow-up/monitoring. Two home visits are required in a six-month period. Service provider records for MR/DD waiver participants must be monitored by the case management agency on a quarterly basis.

b. Services shall be authorized for a maximum six-month time period. All services must be documented on the MRCAMIS service log and be entered into MRCAMIS. Weekly submissions of MRCAMIS data are required.

c. The procedure codes applicable to case management services for the infants and toddler population is Z0094 for MR/DD waiver participants and Z0093 for non-waiver participants. The monthly payment rate is \$133 for both groups of children.

4. Persons Infected with HIV

a. A minimum of two hours of documented case management services in each month in which services are billed. The two hours must include one face-to-face contact with the recipient in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring. A home assessment is a required component of the initial assessment for HIV case management services.

b. The procedure code applicable to case management services for this population is Z0095 and the monthly payment rate is \$99.

5. High Risk Pregnant Women of the Metropolitan New Orleans Area

a. A minimum of one hour of documented case management services in each month in which services are billed. This must include one face-to-face contact with the recipient in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up monitoring. A home assessment is a required component of the initial assessment for high risk pregnant women case management services.

b. In addition, the following contacts are required: 1) a minimum of monthly verbal contact with the recipient's obstetrician or his staff, 2) weekly verbal contact with the recipient beginning with her 37th week of pregnancy until the delivery, 3) quarterly home visits with the recipient, 4) weekly contact with other service providers and/or informal supports, and 5) a postpartal home visit to be made within 10 to 14 calendar days after delivery focusing on postpartal concerns and infant care.

c. The procedure codes continue to be X0057 for assessment and X0058 for ongoing services and the monthly payment rates are \$130 for the assessment and \$57 for ongoing services.

d. Only one assessment service shall be reimbursed for each pregnancy.

6. Case Management Services for Participants of the Home Care for the Elderly Waiver Program

a. A minimum of two hours of documented case management services in each month in which services are billed. The two hours must include one face-to-face contact with the consumer in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring.

b. Service provider records must be monitored by the case management agency on a quarterly basis.

c. The procedure code continues to be Z0088 for this population and the monthly payment rate is \$99.

D. Assessments prior authorized for the MR/DD populations and the seriously mentally ill population through September 30, 1995 and completed by October 31, 1995 are reimbursable under the reimbursement methodology in effect prior to October 1, 1995.

Interested persons may submit written comments to: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter at 9 a.m. Thursday, December 28, 1995, in the first floor auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day of the public hearing.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Case Management Services Reimbursement (OTCM)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that implementation of this proposed rule will result in decreased expenditures for case management services by approximately \$2,967,248 for SFY 1995-96; \$3,085,938 for SFY 1996-97; and \$3,307,944 for 1997-98.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that federal revenue collections for case

management services will decrease by approximately \$7,660,431 for 1995-96; \$7,966,848 for 1996-97; and \$8,186,953 for 1997-98.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that the providers of the Case Management Program will experience the combined state and federal expenditure decreases shown above for the provision of these services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9511#067

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Commercial Driving Schools (LAC 55:III.Chapter 1)

The Department of Public Safety and Corrections, Office of Motor Vehicles, in accordance with R.S. 49:950 et seq., and R.S. 32:402.1, gives notice of its intent to adopt rules and regulations pertaining to the operating standards of commercial driving schools (LAC 55:III.Chapter 1).

Copies of the full text of these proposed rules and regulations may be obtained from the Office of Motor Vehicles, 109 South Foster Drive, Baton Rouge, LA 70806, telephone (504) 922-2158; or from the Office of the State Register, 1051 North Third Street, Baton Rouge LA 70804.

A public hearing on the proposed rule will be held on December 27, 1995, commencing at 9:30 a.m. at the Louisiana State Police Training Academy Auditorium, 7901 Independence Boulevard, Baton Rouge, LA.

Interested persons may submit written comments to George Lee, Office of Motor Vehicles, 109 South Foster Drive, Baton Rouge, LA 70806. Written comments will be accepted through December 20, 1995.

Paul W. Fontenot
Deputy Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Commercial Driving Schools**

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)

The department will collect approximately \$2,650 annually (\$1,200 in school license fees and \$1,450 in instructor permit fees).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR

NONGOVERNMENTAL GROUPS (Summary)

Each commercial driving school will have to purchase at least one notary-type seal at a cost of approximately \$28.75 each which will be applied over the signature of the school owner/operator as printed on the "Certificate of Successful Completion" form.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Rexford McDonald
Undersecretary
9511#064

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Revenue and Taxation
Office of Alcoholic Beverage Control**

Alcoholic Beverage Sampling (LAC 55:VII.317)

Under the authority of R.S. 26:75(C)(2) and R.S. 26:275(B)(2) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Office of Alcoholic Beverage Control, proposes to amend LAC 55:VII.317 to reflect recent amendments to R.S. 26:75 and R.S. 26:275(B)(2).

Act 1081 of the 1995 Regular Legislative Session amended R.S. 26:75 and R.S. 26:275(B)(2) to authorize the sampling of alcoholic beverages at the premises of all Class A and Class B permit holders and to direct the Office of Alcoholic Beverage Control to promulgate rules necessary to regulate these activities.

The entire text of this proposed rule may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

All interested persons may submit data, views, or arguments, in writing to Terry E. Pitre, Commissioner, Office of Alcoholic Beverage Control, 1885 Wooddale Boulevard, Baton Rouge, LA 70806. All comments must be submitted by 4:30 p.m., Wednesday, December 27, 1995. A public hearing will be held on Thursday, December 28, 1995, at 10 a.m. in the Office of Alcoholic Beverage Control conference room, 1885 Wooddale Boulevard, Baton Rouge, LA 70806.

Terry E. Pitre
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Alcoholic Beverage Sampling**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no additional costs to state or local government except for the costs of printing and distributing copies of the proposed rule, which we estimate to be less than \$25.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs and/or economic benefits to wholesalers and manufacturers of alcoholic beverages or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should have no effect on competition or employment.

Terry E. Pitre
Commissioner
9511#061

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Revenue and Taxation
Tax Commission**

Ad Valorem Tax (LAC 61:V.Chapters 3-35)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt and/or amend sections of the Louisiana Tax Commission real/personal property rules and regulations for use in the 1996 (1997 Orleans Parish) tax year. An identical emergency rule is referenced in this issue of the *Louisiana Register*.

The full text of these proposed rules may be obtained at a cost of \$6.25 from the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge LA. Reference document number 9511#058.

Interested persons may submit written comments on the proposed rules until 4 p.m., December 8, 1995, at the following address: E.W. "Ed" Leffel, Property Tax Specialist, Tax Commission, Box 66788, Baton Rouge, LA 70896.

Malcolm B. Price, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ad Valorem Tax**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs to the agency are the costs of preparation, reproduction and distribution of updated regulations. These costs are estimated at \$6,750 for the 1995-96 fiscal year and are being reimbursed through an existing user service fee of \$15 per set.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Local Governmental Units: These revisions will generally increase 1996 certain real and personal property assessments for property of similar age and condition in comparison with equivalent assessments in 1995. Composite multiplier tables for assessment of most personal property will remain unchanged. Specific valuation tables for assessment of oil and gas properties will generally increase by an estimated 8 percent on wells. Use value assessed lands will generally increase by an estimated 21 percent. The net effect of these revisions is estimated to increase assessments by 3.5 percent and tax collections by \$11,739,000 on the basis of existing statewide average millage. However, local governmental units have the authority to offset all or a portion of this increase by millage adjustment.

State Governmental Units: Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be \$249,000 from public service companies, and \$57,000 from financial institutions and insurance companies all of which are assessed by the Tax Commission.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The effects of these new rules on assessments of individual items of equivalent real and personal property will generally be higher in 1996 than in 1995. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and user service fees as itemized above total \$306,000 to be paid by public service property owners, financial institutions and insurance companies for 1995/96.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. Inasmuch as the proposed changes in assessments and charges are relatively small, the impact is thought to be minimal.

Ann R. Laurence
Executive Secretary
9511#058

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Establishment of Paternity (LAC 67:III.2705)

The Department of Social Services, Office of Family Support, proposes to amend the LAC 67:III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Act 954 of the Regular Session of the 1995 Louisiana Legislature, SES is directed to take action on the paternity information form completed by the mother of an illegitimate child and provided to SES by hospitals or the Vital Records Registry. This rule will establish the agency's role in the administrative process of establishing paternity.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 27. General Program Administration

Subchapter A. Establishment of Paternity

§2705. Administrative Process for Establishing Paternity

Upon receipt of a Paternity Declaration Form, Support Enforcement Services will notify the alleged father by certified mail that he has been named as father of the child and that he has 90 days to contest the allegation. If the alleged father fails to contest the allegation in writing within this time frame, he shall be presumed to be the father of the child for support purposes only. The agency or the custodial parent may then proceed with establishing a support order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:34 (E).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on December 29, 1995 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. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Establishment of Paternity

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule is expected to result in increased child support collections which will ultimately save money for the state and local governmental units which are involved in cooperative efforts in this area. The immediate cost to the state is anticipated to be \$32,519 in FY 95/96.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Since many district attorneys receive incentives on collections and the state hopes to increase collections as a result of the rule, both could realize increased revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The child for whom paternity is established (and the mother or custodian parent) will benefit financially from paternal support. The father who acknowledges paternity would incur the costs of providing toward the support of his child.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect.

Howard L. Prejean
Assistant Secretary
9511#102

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

**Paternity Acknowledgment Program
(LAC 67:III.2703, 2751, 2753)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

In order to improve program effectiveness and in accordance with 45 CFR Parts 301-305, R.S. 40:46.1 requires that all hospitals in the state which provide birthing services shall have a program for the voluntary acknowledgment of paternity. Acknowledgments provided to the state registrar shall be referred to SES. This rule establishes the role of SES in this process.

Subpart 4, previous §2702 is being renumbered as §2751 to accommodate the incorporation of this rule. Previous §2541 is relocated to §2753 also to improve codification.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 27. General Program Administration

Subchapter A. Establishment of Paternity

§2703. Hospital-based Paternity Acknowledgment Program

The agency will provide all birthing hospitals in the state written materials concerning paternity establishment, written descriptions of the rights and responsibilities of acknowledging paternity, and the forms necessary to voluntarily acknowledge such, as well as training necessary to operate the program. The agency will receive acknowledgments generated by the program and maintain a statewide database. Information from the database will be used in child support matters subject to the jurisdiction of SES.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.4(f), 303.5(g) and (h), R.S. 40:46.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:

Subchapter B. Notice of Collection of Assigned Support §2751. Annual Notice of Collection

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.54.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985), amended by the Department of Social

§2753. Information Released to Consumer Reporting Agencies

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(D), (F)(4), (F)(5), (M) and 45 CFR 303.105.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 22:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on December 29, 1995 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. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 504-342-4120 (Voice and TDD).

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Paternity Acknowledgment Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The program will result in both costs and savings to state and local governments but as a new program, no previous information exists to project estimates. Only the immediate cost of necessary printed materials can be provided at this time. For FY 95/96 initial costs will be \$2,756.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Since this is a new program, there is no data on which any projection could be based, but state government will be able to increase collection of child support. There will be no direct effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Participating hospitals will have increased costs to administer the program. The child acknowledged and the mother could financially benefit from paternal support. The father who acknowledges paternity would incur the costs of providing toward the support of his child.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect.

Howard L. Prejean
Assistant Secretary
9511#100

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Support Enforcement (LAC 67:III.2527, 2540)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

In a continuing effort to improve program effectiveness and pursuant to Acts 426, 707 and 1078 of the 1995 Regular Session of the Louisiana Legislature, this rule authorizes SES to take new means to enforce court orders relative to child support and medical support. In some instances, action may be taken against a noncompliant obligor which would suspend certain professional, drivers, or hunting and fishing licenses issued by the state.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter H. Medical Support Activities

§2527. Securing and Enforcing Medical Support Obligations

* * *

D. SES may enforce court-ordered medical support by means of income assignment.

E. SES shall require the employer of a parent who is court-ordered to provide medical support to enroll and maintain available health insurance on a child. The agency may also submit claims to the insurer and be reimbursed costs paid on behalf of the child.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 306.50, 45 CFR 306.51 and R.S. 46:236.1(B)(5), 46:236.3, 46:236.4, 46:236.8(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:245 (April 1986), amended by the Department of Social Services, Office of Family Support, LR 22:

**Subchapter L. Enforcement of Support Obligations
§2540. Suspension of License(s) for Nonpayment of Child Support**

A. The agency may, under certain circumstances, petition the courts for an order to suspend the license(s) of an individual who is not in compliance with an order for support. The criteria for referral are as follow:

1. cases which have a support order which is being enforced in Louisiana,
2. income assignment is not practical, and
3. the absent parent is at least six months in arrears and not complying with a court order to make periodic payments.

B. The obligor will be given a 30-day advance written notice affording an opportunity to liquidate the arrears or make satisfactory arrangements with the agency prior to the case being referred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:315.30 through 315.35.

HISTORICAL NOTE: Promulgated by the Department of

Social Services, Office of Family Support, LR 22:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-4065. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on December 29, 1995 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. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 504-342-4120 (Voice and TDD).

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Support Enforcement**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
These rule changes will require only program policy revisions or additions since they represent remedy with regard to enforcement of court-ordered support.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
The rule is intended to improve collection of child support which may increase collections for state government and those district attorneys with whom the agency maintains contracts providing incentives for collection.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
The rule will cost the parent who is court-ordered to provide support as it provides the agency with new options in obtaining that support. The child(ren) and custodial parent would benefit from the receipt of support.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
No effect.

Howard L. Prejean
Assistant Secretary
9511#101

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of Rehabilitation Services**

**Randolph-Sheppard Trust Fund Policy
(LAC 67:VII.Chapter 21)**

In accordance with the provisions of R.S. 49:953, the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) proposes to adopt a Randolph-Sheppard Trust Fund Policy.

The purpose of this notice is to propose a rule governing

Louisiana Rehabilitation Services' Randolph-Sheppard Trust Fund Policy to ensure uniformity in establishing the operation and services for the program.

Title 67

SOCIAL SERVICES

Part VII. Louisiana Rehabilitation Services

**Chapter 21. Randolph-Sheppard Trust Fund Policy
§2101. Program Profile**

A. **Mission.** To provide for the enhancement of programs for persons who are licensed and permitted through the Randolph-Sheppard Business Enterprise Program.

B. **Program Administration**

1. The administration of the fund shall be exercised by the Department of Social Services, Louisiana Rehabilitation Services.

2. The Blind Vendors Trust Fund Advisory Board will have the responsibility to advise and make recommendations to the agency for the promulgation of rules and regulations; monitor, evaluate and review the development and quality of services and programs funded through the Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641-2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, LR 22:

§2103. Enabling Legislation

Senate Bill No. 676, Act 1285 of the 1995 Regular Session, Chapter 49 of Title 46 of the Louisiana Revised Statutes 46:2641 through 2645.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641-2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, LR 22:

§2105. Definitions

Agency—Louisiana Rehabilitation Services within the Department of Social Services which licenses blind vendors.

Blind Enterprise Program—The services available to establish business enterprises and other similar programs for persons who are blind as provided in the Randolph-Sheppard Act.

Blind Vendors—Those individuals who are classified under state and federal regulations as legally blind and who are licensed to and have a permit to operate vending facilities on state, federal, or other property.

Board—The Blind Vendors Trust Fund Advisory Board.

Department—The Department of Social Services.

Director—The director of Louisiana Rehabilitation Services.

Fund—The Blind Vendors Trust Fund.

Randolph-Sheppard Act—The federal law which enables the Blind Enterprise Program under the authority of 20 U.S.C. 107 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46 2641-2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, LR:

§2107. Blind Vendors Trust Fund Advisory Board

A. The Blind Vendors Trust Fund Advisory Board shall be composed of nine members as follows:

1. The director of Louisiana Rehabilitation Services of the Department of Social Services or his or her designee.

2. Eight members of the Louisiana Blind Vendors

Elected Committee.

B. The board shall be domiciled in East Baton Rouge Parish.

C. The board shall meet at least once in each quarter of the fiscal year and as often as necessary thereafter as deemed by the chairman.

D. A majority of the individuals appointed to the board shall constitute a quorum.

E. Members shall serve without compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641 - 2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, LR 22:

§2109. Blind Vendors Trust Fund Revenues

A. The Blind Vendors Trust Fund shall consist of monies collected from certain vending machines located on state, federal, and other property pursuant to the Randolph-Sheppard Act.

B. The fund may receive monies from any source.

C. The legislature may make annual appropriations to the Trust Fund.

D. All unexpended and unencumbered monies remaining in the fund at the close of each fiscal year shall remain in the fund.

E. Monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund.

F. All interest earned from the investment of monies in the fund shall be deposited in and remain to the credit of the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641 - 2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, LR 22:

§2111. Expenditures

A. The monies in the fund shall be used solely for programs to provide services for the Blind Enterprise Program established in Louisiana pursuant to the Randolph-Sheppard Act.

B. Money in the trust fund from vending machines located on federal property shall be distributed for the primary purpose of the establishment and maintenance of retirement or pension plans, for health insurance, and contributions for the provisions of paid sick leave and vacation time for blind vendors, if approved by majority vote of blind vendors licensed by the agency after the agency has provided to each vendor information on all matters relevant to such purposes.

C. Income not expended for the primary purpose shall be used for the maintenance and replacement of equipment, the purchase of new equipment, management services, and securing a fair return to vendors, or as provided by state and federal guidelines.

D. Money in the trust fund from vending machines located on state-owned property or on property leased by the state agency, or on other property shall be distributed for any purpose associated with the Randolph-Sheppard Program as may be determined by the state licensing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641 - 2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, LR 22:

§2113. Financial Reports

The director of Louisiana Rehabilitation Services of the Department of Social Services or his or her designee shall arrange for full and accurate financial records to be maintained in compliance with law and shall make a full and complete report to the board annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641 - 2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, LR 22:

§2115. General Requirements

A. Nondiscrimination. All programs administered by and all services provided by the agency shall be rendered on a nondiscriminatory basis without regard to race, creed, color, age, religion, sex, national origin, disability, ethnicity, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations.

B. Civil Rights and Equal Employment Opportunities with Regard to Employees or Agencies Delivering Services. Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination because of race, color, or national origin; Title V of the Rehabilitation Act of 1973, as amended, and Title I of the Americans with Disabilities Act PL 101-336 prohibit discrimination because of disabling condition. The provisions of these Acts apply to services and programs administered by Louisiana Rehabilitation Services.

C. Compliance With State and Federal Laws and Regulations, and Departmental Policies and Procedures. All agencies and staff involved in the Blind Vendors Trust Fund shall comply with all state and federal laws, including the Department of Social Services policies and procedures as well as civil rights rules and regulations, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641 - 2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, LR 22:

Public hearings beginning at 10 a.m., will be conducted on December 14, 1995 in Alexandria, Baton Rouge, New Orleans, and Shreveport respectively. The hearing locations are as follows: Alexandria at 900 Murray Street; Baton Rouge at 2097 Beaumont Drive; New Orleans at 2026 St. Charles Avenue; and Shreveport at 1525 Fairfield.

Individuals with disabilities who require special services should contact Louisiana Rehabilitation Services at least seven working days prior to the hearing they wish to attend. For assistance call (504) 925-4131 or 1-800-737-2958 or for Voice and TDD, 1-800-256-1523.

Interested persons may submit written comments by December 21, 1995, to May Nelson at the address above. She is responsible for responding to inquires regarding the proposed rule.

Additional copies of this entire text of the policy manual may be obtained at Louisiana Rehabilitation Services State Office, 8225 Florida Boulevard, Baton Rouge, LA, at each of its nine regional offices and at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Randolph-Sheppard Trust Fund Policy**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated implementation costs as this trust fund will be administered by an existing program - Randolph-Sheppard.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that an additional \$233,222 will be collected and deposited in the Blind Vendors Trust Fund. This is a statutory dedicated fund created by Senate Bill 676 being signed into law.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
It is projected that an estimated \$233,222 of statutory dedicated funds will be available to provide services as outlined in Senate Bill 676.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no proposed change in competition and employment in the public and private sectors.

May Nelson
Director
9511#103

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Transportation and Development
Office of Weights and Standards**

Legal Limitations (LAC 73:I.Chapters 5-19)

In accordance with the applicable provision of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend LAC 73:I.Chapters 5-19 pertaining to legal limitations and department regulations for size and weight in accordance with R.S. 32:2.

The full text of these proposed rules may be obtained from the Department of Transportation and Development, Office of Weights and Standards, 1201 Capitol Access Road, Baton Rouge, LA and from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA; telephone (504)342-5015. Please refer to document number 9511#088 when requesting the full text of this notice.

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. Such comments should be submitted to Anthony Navarre, Weights and Standards Enforcement Vehicle Permits Administrator, Box 94042, Baton Rouge, LA 70804-9052 (504)377-7101.

Jude W.P. Patin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Legal Limitations and Regulations
for Size and Weight**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (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 the revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no economic impact on directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Jude W.P. Patin
Secretary
9511#088

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Office of Fisheries**

Saltwater Rod and Reel License (LAC 76:VII.405)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a rule to establish the procedures relative to the proof of income criteria for applicants for a saltwater commercial rod and reel license in accordance with the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may submit written comments until 4:30 p.m., January 3, 1996, to: Wynnette Kees, Fiscal Officer, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Perry Gisclair
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Saltwater Rod and Reel License**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There will be no implementation costs or savings to state or local governmental units as a result of this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There will be no effect on revenue collection of state or local governmental units as a result of this rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC
BENEFITS TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

Applicants for the commercial rod and reel license may incur some unknown, minimal costs for obtaining the required documentation for proof of income.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The proposed rule will have no effect on competition and employment.

Fredrick J. Prejean, Sr.
Undersecretary
9511#044

David W. Hood
Senior Fiscal Analyst

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Net Buy-Back Schedule**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation cost to the state is unknown at this time since it is dependent on the number of nets which will be submitted for buy-back. The cost to implement will be funded with monies deposited to the Commercial Fisherman's Economic Assistance Fund.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule will have no effect on the revenue collections of state or local government units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule will likely result in economic benefit and costs to qualified sellers of their nets. There is not sufficient data at this time to determine the extent of economic benefit or cost.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

This rule will not have any effect on competition and employment.

Fredrick J. Prejean, Sr.
Undersecretary
9511#043

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Black Drum, Sheepshead, and Flounder Harvest
(LAC 76:VII.349)**

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Office of Management and Finance**

Net Buy-Back Program (LAC 76:XVII.301)

The Department of Wildlife and Fisheries does hereby give notice of its intent to promulgate a rule to establish a schedule showing the amount to be paid for each type and size of net to be purchased under the Net Buy-Back Program portion of the Commercial Fisherman's Economic Assistance Program and to establish procedures for application. This is in accordance with the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may submit written comments until 4:30 p.m., January 3, 1996, to: Wynnette Kees, Fiscal Officer, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Joe L. Herring
Secretary

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a rule (LAC 76:VII.349) to establish regulations governing the commercial harvest of black drum, flounder, sheepshead and other saltwater finfish (other than red drum, spotted seatrout, and mullet) with pompano strike nets. These regulations are required to effectuate the requirements of Act 1316 of the Regular Legislative Session. Authority for adoption of this rule is included in R.S. 56:6(10); 56:6(25)(a); 56:326.1; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.4.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to January 3, 1996.

Perry Gisclair
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Black Drum, Sheepshead, Flounder Harvest**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be unquantifiable state governmental implementation costs. Evaluation of applicants for permits, issuance of permits, tracking permit reports, and enforcement costs will require expenditures of state manpower but these expenses are not measurable, due to lack of data.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an unestimable decline of revenues to the Conservation Fund from the proposed rule. There will be declines in revenues from existing commercial license and permit sales. Overall change in revenue is not possible due to lack of data.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Rule is intended to provide regulations consistent with Act 1316 of the 1995 Regular Legislative Session. This change may reduce the benefits received from fishing to the harvesters using pompano strike nets by decreasing the time (season, weekend, and night closures) during which the gear may be used, and by restricting the methods by which the gears may be operated and the quantity of gear used for harvest (changes required by statute). The overall dimensions of these changes are not estimable at this time, due to lack of data. Benefits may be received by some harvesters due to reduced competition resulting from criteria required to obtain a permit, which should reduce the numbers of harvesters. Verification of these projected impacts is presently impossible due to lack of information. Direct costs to commercial fishermen for permits and fees will be increased by documentation requirements for a permit application, required by legislation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will probably provide a slight negative effect on competition and employment. Proposed rule would reduce the numbers of commercial harvesters, reducing competition and employment in that sector. Some of these persons may redirect their fishing effort into other geographic areas, other fisheries or into nonfishing activities. No data is presently available to estimate the dimensions of this change.

Fredrick J. Prejean, Sr.
Undersecretary
9511#047

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Commercial Fisherman's Assistance
Program (LAC 76:XVII.101)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a rule to establish the procedures for determining proof of income of applicants for economic assistance under the Commercial Fisherman's Assistance Program established by the Louisiana Marine Resources Conservation Act of 1995 (Act 1316).

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments until 4:30 p.m., January 3, 1996, to: Wynnette Kees, Fiscal Officer, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Perry Gisclair
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Commercial Fisherman's Assistance
Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Applicants for economic assistance may incur some unknown, minimal costs for obtaining the required documentation for proof of income.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment.

Fredrick J. Prejean, Sr.
Undersecretary
9511#042

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Mullet Harvest (LAC 76:VII.343)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a rule (LAC 76:VII.343) to amend the regulations governing the commercial harvest of mullet. These regulations are required to effectuate the requirements of Act 1316 of the Regular Legislative Session. Authority for adoption of this rule is included R.S. 56:6(25)(a); 56:326.3; 56:333; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:333.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed rule to: Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to January 3, 1996.

Perry Gisclair
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Harvest of Mullet

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be unquantifiable state governmental implementation costs. Evaluation of applicants for permits, issuance of permits, tracking permit reports, and enforcement costs will require expenditures of state manpower, but these expenses are not measurable, due to lack of data.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be an unestimable decline of revenues to the Conservation Fund from the proposed rule. There will be declines in revenues from existing commercial license and permit sales. Overall change in revenues is not possible due to lack of data.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Rule is intended to provide regulations consistent with Act 1316 of the 1995 Regular Legislative Session. This change may reduce the benefits received from fishing to the harvesters by decreasing the time (season, weekend, and night closures) during which the species is available for allowable harvest, and by restricting the quantity of gear with which this harvest may occur (changes required by statute). The overall dimensions of these changes are not estimable at this time, due to lack of data, but seasonal

closures alone may cause loss of at least \$1 million in dockside value of landings during those periods. Benefits may be received by some harvesters due to reduced competition resulting from criteria required to obtain a permit, which should reduce the numbers of harvesters. Verification of these projected impacts is presently impossible due to lack of information. Direct costs to commercial fishermen for permits and fees will be increased by documentation requirements for a permit application, required by legislation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will probably provide a slight negative effect on competition and employment. Proposed rule would reduce the numbers of commercial harvesters, reducing competition and employment in that sector. Some of these persons may redirect their fishing effort into other geographic areas, other fisheries, or into nonfishing activities. No data is presently available to estimate the dimensions of this change.

Fredrick J. Prejean, Sr.
Undersecretary
9511#046

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spotted Seatrout Harvest (LAC 76:VII.341)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a rule (LAC 76:VII.341) to amend the regulations governing the commercial harvest of spotted seatrout. These regulations are required to effectuate the requirements of Act 1316 of the Regular Legislative Session. Authority for adoption of this rule is included in Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); 56:325.3; 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3.

The text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to: Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to January 3, 1996.

Perry Gisclair
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Spotted Seatrout Harvest**

Potpourri

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a nonquantifiable increase in state governmental implementation costs. Evaluation of applicants for permits, issuance of permits, tracking permit reports, and enforcement of the provisions of the rule will require expenditures of state manpower, but these expenses are not measurable, due to lack of data.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be changes in state revenues of undeterminable magnitude as a result of the proposed rule. Increases in permit fees will be partially offset by lower sales for some licenses. Recreational fishing license sales may increase slightly as well. Estimation of overall change in revenues is not possible due to lack of data.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Rule is intended to provide regulations consistent with Act 1316 of the 1995 Regular Legislative Session. This change may reduce the benefits received from fishing to commercial harvesters by decreasing the time during which the species is available for allowable harvest, and by restricting the gear with which this harvest may occur (change required by statute). The dimensions of these changes are not estimable at this time, due to lack of data. Benefits are realized as the rules will allow commercial harvest with gears otherwise disallowed (rod and reel). Recreational harvesters may benefit from reduced competition for the resource. This may encourage increased participation in the recreational industry which may contribute to local and state economies by increasing sales and employment. Verification of these conjectures is presently impossible due to lack of information. Direct costs to commercial fishermen for permits and fees will be increased by the requirement for a permit fee, required by legislation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule may provide a slight negative or positive effect on competition or employment. Proposed rule would reduce the number of commercial harvesters, reducing competition in that sector, and between recreational and commercial sectors. Some commercial harvesters may redirect their fishing effort into other geographic areas, other fisheries, or into nonfishing activities. Employment in the recreational sector may increase as a result of increased fishing activities in that sector. No data is presently available to estimate the dimensions of this change.

Fredrick J. Prejean, Sr.
Undersecretary
9511#045

John R. Rombach
Legislative Fiscal Officer

POTPOURRI

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Horticulture Commission**

Retail Floristry Examination

The next retail floristry examination will be given January 22-26, 1996, at 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending application and fee is December 21, 1995.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, telephone (504) 925-7772.

Any individual requesting special accommodations due to a disability should notify our office prior to December 21, 1995. If you have any questions, please call our office at (504) 925-7772.

Bob Odom
Commissioner

9511#049

POTPOURRI

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

Adjudicatory Meeting

The Forestry Commission and the Tax Commission will hold an adjudicatory hearing beginning at 10 a.m., December 11, 1995, in the Department of Agriculture and Forestry Auditorium, Room 1247, located at 5825 Florida Boulevard, Baton Rouge, LA, relative to the setting of timber stumpage values for severance tax purposes for tax year 1996 pursuant to R.S. 47:633.

All interested persons are invited to attend and will be afforded an opportunity to participate in the adjudicatory hearing.

Billy Weaver
Chairman
Forestry Commission

Malcolm Price
Chairman
Tax Commission

9511#109

POTPOURRI

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

Joint Meeting

The Forestry Commission and the Tax Commission will hold a joint meeting beginning at 1 p.m., December 11, 1995, in the Department of Agriculture and Forestry Auditorium, Room 1247, located at 5825 Florida Boulevard, Baton Rouge, LA, relative to the setting of timber stumpage values for severance tax purposes for tax year 1996 pursuant to R.S. 47:633.

All interested persons are invited to attend.

Billy Weaver
Chairman
Forestry Commission

Malcolm Price
Chairman
Tax Commission

9511#108

POTPOURRI

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

Part 70 Operating Permits Program; EPA Approval
(LAC 33:III.507)

The Department of Environmental Quality, Office of Air Quality and Radiation Protection is announcing approval of the Louisiana Part 70 program. Final approval was published in the *Federal Register* September 12, 1995, and the program is effective October 12, 1995. For more information about Part 70 Operating Permits Program, call Keith Jordan at (504) 765-0217.

Gustave A. Von Bodungen, P.E.
Assistant Secretary

9511#048

Office of the Governor
Division of Administration
Community Development Section

Public Hearings—HUD Funded Programs

As set forth in 24 CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) requires state agencies which administer certain HUD programs to incorporate their planning and application requirements into one master plan called the Consolidated Plan. In Louisiana the four state agencies participating in this consolidated planning process and the HUD funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program), the Louisiana Housing Finance Agency (HOME Investment Partnerships), the Department of Social Services/Office of Community Services (Emergency Shelter Grants), and the Department of Health and Hospitals/HIV Program Office (Housing Opportunities for Persons with AIDS). A summary of the four programs follows. A Consolidated Plan was prepared which outlines the state's overall housing and community development needs and a strategy for meeting those needs for federal fiscal years 1995 - 1999 and included a one-year action plan for FY 1995 federal funds received for the four aforementioned HUD programs. An annual update or action plan for the distribution of funds must be prepared and publicized for each of the subsequent four program years.

The Small Cities Community Development Block Grant Program provides financial assistance to parishes of less than 200,000 persons and municipalities with a population of less than 50,000 in their efforts to provide a suitable living environment, decent housing, essential community facilities, and expanded economic opportunities. Eligible activities include community infrastructure systems such as water, sewer, and street improvements, housing rehabilitation, and economic development assistance in the form of grants and loans. Projects funded under this program must principally benefit persons of low and moderate income.

The objectives of the HOME Investment Partnerships Program are: to expand the supply of decent and affordable housing for low and very low income persons, to stabilize the existing deteriorating owner occupied and rental housing stock through rehabilitation, to provide financial and technical assistance to recipients/subrecipients, and to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing.

The purpose of the Emergency Shelter Grants Program is to help local governments and community organizations to improve and expand shelter facilities serving homeless individuals and families, to meet the costs of operating homeless shelters, to provide essential services, and to perform homeless prevention activities.

The Housing Opportunities for Persons with AIDS Program provides localities with the resources and incentives to devise

and implement long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome (AIDS) or related diseases and their families.

The four agencies administering these programs are beginning to prepare the Annual Action Plan for the FY 1996 federal allocation. The Annual Action Plan for the FY 1996 federal funds must indicate how the proposed method of distribution of resources and anticipated program income from the four HUD programs will address the priority needs and specific objectives described in the Consolidated Plan.

To assist the agencies in developing the FY 1996 Annual Action Plan, public hearings will be held for the purpose of obtaining views on community development and housing needs throughout the state. Public hearings will be held on Tuesday, December 5, 1995, at 2 p.m. in the Committee Room on the third floor of the Capitol Annex, 1051 North Third Street, Baton Rouge, LA, and on Wednesday, December 6, 1995, at 1 p.m. in the Council Chambers at the Pineville City Hall, 910 Main Street, Pineville, LA. These facilities are accessible to persons with physical disabilities. Non-English speaking persons and persons with other disabilities requiring special accommodations should contact the Office of Community Development at (504) 342-7412 or TDD (504) 342-7422 or at the following address prior to November 28, 1995.

Anyone who is unable to attend the public hearings may submit written comments to the Office Of Community Development, Box 94095, Baton Rouge, LA 70804-9095. Such comments should be submitted by December 13, 1995.

Raymond Laborde
Commissioner of Administration

9511#107

POTPOURRI

Department of Health and Hospitals Office of Public Health

Nutria Processing Public Hearing

The Department of Health and Hospitals, Office of Public Health will hold a public hearing on November 29, 1995 at the State Office Building, Conference Room, 150 Third Street, Baton Rouge, LA, at 1 p.m. relative to the proposed rules for nutria processing. The public is invited to comment on the proposed rules which were published pursuant to the notice of intent in the October 20, 1995 issue of the *Louisiana Register*. All interested persons will be afforded an opportunity to submit written or oral comments at said hearing.

Rose V. Forrest
Secretary

9511#106

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	Well Name	Well Number	Serial Number
Damson Oil Corporation	Delarge	Mahler Inc	001	138317
Southdown, Inc.	Lake Hatch	Terrebonne Parish School Board	001	080530

Ernest A. Bourguieres, III
Commissioner

9511#110

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[The page contains extremely faint, illegible text that appears to be bleed-through from the reverse side of the paper. The text is arranged in several columns and paragraphs, but the characters are too light to be transcribed accurately.]

