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Executive Orders

EXECUTIVE ORDER MJF 96-46

Arson Strike Force

WHEREAS: a recent annual statistical compilation reveals that, in 1994, 846 of the fires in this state were given the label of "suspicious fire" by the State Fire Marshal;

WHEREAS: to date, the cause of a large percentage of those "suspicious fires" remains unknown;

WHEREAS: those "suspicious fires" destroyed over \$6,700,000 in property, resulting in a waste of this state's valuable resources, contributing to escalating insurance premium costs for Louisiana citizens, and causing emotional havoc to those suffering losses of life and/or property due to those blazes;

WHEREAS: it would be beneficial to local fire departments to have a resource such as a group of skilled arson investigators that can be called upon whenever their expertise and investigative skills are needed in tackling nonroutine arson investigations; and

WHEREAS: arson investigation specialists, from a variety of state and federal agencies, have consented to share their skills, expertise, and resources by being a part of an operational body that can be quickly mobilized to assist local fire departments in determining the cause of problematic, suspicious fires;

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

SECTION 1: The Governor's Arson Strike Force (hereafter "Strike Force") is established within the Executive Department, Office of the Governor.

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

A. at the invitation of a local fire department or official, to assist the local fire department in determining the cause and/or perpetrator(s) of a suspicious fire, by providing prompt investigative assistance and by availing their expertise, skills, and resources to the local fire department, so that a state-of-the-art investigation of the circumstances surrounding the fire can be made; and

B. to compile information about arsonists, arson prevention, and arson investigation techniques for the education and benefit of fire departments throughout the State of Louisiana.

SECTION 3: The Strike Force shall consist of no more than 20 members who shall be appointed by and serve at the pleasure of the Governor. Membership of the Strike Force shall be composed as follows:

A. the State Fire Marshal, or the Fire Marshal's designee;

B. the Superintendent of the Department of Public Safety, or the Superintendent's designee;

C. the Assistant Secretary of the Louisiana Department of Agriculture and Forestry, or the Assistant Secretary's designee;

D. the Assistant Secretary of the Louisiana Department of Environmental Quality, or the Assistant Secretary's designee;

E. the Louisiana Insurance Commissioner, or the Insurance Commissioner's designee;

F. the Executive Director of the Louisiana District Attorneys Association, or the Executive Director's designee;

G. the Executive Director of the Louisiana Sheriffs Association, or the Executive Director's designee;

H. the Executive Director of the Chiefs of Police Association, or the Executive Director's designee;

I. at least one arson investigator from a private insurance company;

J. at least one arson investigator and/or other representative from the Bureau of Alcohol, Tobacco, and Firearms;

K. at least one arson investigator and/or representative from the Federal Bureau of Investigation;

L. at least two arson investigators from municipal fire departments within the State of Louisiana; and

M. at least one at-large member.

SECTION 4: The Chair of the Strike Force shall be appointed by the Governor from its membership.

SECTION 5: The Strike Force shall report its progress annually to the Governor, by January 5th of each year.

SECTION 6: Strike Force members shall not receive compensation or a per diem for their services, nor shall they be reimbursed for travel expenses.

SECTION 7: Support staff for the Strike Force, and facilities for their meetings, shall be provided by the State Fire Marshal's Office.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Strike Force in implementing the provisions of this Order.

SECTION 9: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 16th day of October, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#008

EXECUTIVE ORDER MJF 96-47

Office of Urban Affairs and Development

WHEREAS: the State of Louisiana has a significant population of disadvantaged residents, especially in its urban areas;

WHEREAS: these disadvantaged citizens have special health, safety, and socio-economic concerns which most citizens of the State of Louisiana will never experience;

WHEREAS: these special concerns must be addressed before the quality of life for these inner-city dwellers will be enhanced and improved; and

WHEREAS: efforts to improve the quality of life for Louisiana's disadvantaged urban citizens can be coordinated, directed, and monitored more effectively from an office established within the Executive Department, Office of the Governor, rather than from an outside source;

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

SECTION 1: The Office of Urban Affairs and Development (hereafter "Office") shall be re-established within the Executive Department, Office of the Governor.

SECTION 2: The duties and functions of the Office shall include, but are not limited to, the following: coordinating, directing, and monitoring all efforts to enhance the quality of life of the disadvantaged urban residents of the State of Louisiana; providing, promoting, and coordinating enabling legislative initiatives to improve their quality of life; providing, promoting, monitoring, and overseeing economic development programs and activities for disadvantaged urban residents; disseminating information to various private agencies and state agencies which serve to enhance the health, safety, and socio-economic welfare of the disadvantaged urban residents of the State of Louisiana; advising the Governor on all issues relative to the affairs of Louisiana's disadvantaged urban citizens; assisting the Office of the Governor in providing constituent services to these urban dwellers; and all other duties and functions requested by the Governor.

SECTION 3: The Office shall be directed by a member of the Executive Staff, Office of the Governor.

SECTION 4: The Office shall have the necessary staff and resources to fulfill the duties and responsibilities specified in this Order.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, and any political subdivision thereof, are authorized and directed to cooperate with the Office in implementing the provisions of this Order.

SECTION 6: Upon signature of the Governor, the provisions of this Order shall be made retroactive to August 11, 1996, and shall remain in effect until amended, modified, terminated or rescinded by the Governor, or terminated by operation of law.

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

Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of October, 1996.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#009

EXECUTIVE ORDER MJF 96-48

Emergency Response Commission

WHEREAS: the ability to protect the citizens of the State of Louisiana depends, in part, upon the adequacy of local community emergency response plans;

WHEREAS: the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. §1101-11050, requires the states to establish and maintain an emergency response commission which has technical expertise in the field of emergency response to notify and protect the public in the event of a release of an extremely hazardous substances into the environment; and

WHEREAS: through the enactment of R.S. 30:2364, the Louisiana Legislature created an Emergency Response Commission within the Department of Public Safety and Corrections to (1) establish emergency planning districts; (2) appoint local emergency planning committees; (3) supervise and coordinate the activities of local emergency planning committees; (4) provide the Environmental Protection Agency with information concerning notification received on certain releases of hazardous substances; (5) designate, as necessary, facilities subject to hazardous material reporting procedures; (6) recommend a standardized inventory form for gathering required information and develop reporting procedures which reduce duplication of reporting; (7) recommend, as necessary, additional substances which should be defined as hazardous materials; and (8) act as the central advisory body for coordinating state and federal Right-to-Know activities with regard to hazardous substances;

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

SECTION 1: The Louisiana Emergency Response Commission (hereafter "Commission") shall have 15 members, and shall be composed of the following:

A. the Deputy Secretary of the Department of Public Safety, or the Deputy Secretary's designee;

B. the Secretary of the Department of Environmental Quality, or the Secretary's designee;

C. the Director of the Office of Emergency Preparedness, Military Department, Office of the Governor, or the Director's designee;

D. a representative of the Right-to-Know Unit, Department of Public Safety, Office of State Police;

E. a representative of the Louisiana Emergency Preparedness Association;

F. a member of the Louisiana State University Fireman Training Program;

G. a representative of environmental interests;

H. a representative of the chemical industry nominated by the Louisiana Chemical Association; and

I. seven at-large members.

SECTION 2: Members shall be appointed by and serve at the pleasure of the Governor.

SECTION 3: The Commission shall have authority to receive grants, donations, or gifts of money, equipment, supplies, or services from any public or private source to enable it to fulfill the duties and responsibilities specified in Title 30 of the Louisiana Revised Statutes of 1950, as amended.

SECTION 4: The Governor shall appoint the Chair of the Commission from its membership. The members of the Commission may elect such other officers as it deems necessary.

SECTION 5: The Commission shall meet quarterly and at other times as called by the Chair. A majority of the members shall constitute a quorum for the transaction of business.

SECTION 6: Members shall serve without compensation, and no member shall receive a per diem or reimbursement of personal expenses from public funds.

SECTION 7: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of October, 1996.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#010

EXECUTIVE ORDER MJF 96-49

Hazard Mitigation Team

WHEREAS: the Louisiana Emergency Assistance and Disaster Act is set forth in R.S. 29:721 et seq.;

WHEREAS: R.S. 29:722 recognizes "the existing possibility of the occurrence of emergencies and disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage, and other hostile action, or from fire, flood, earthquake, or other natural or man-made causes;"

WHEREAS: "in order to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and generally to preserve the lives and property of the people of the state of Louisiana," R.S. 29:722 declares it

necessary to designate the Military Department, State of Louisiana, as the state emergency preparedness agency;

WHEREAS: disaster preparedness assistance is provided by federal grants and through federal programs to states having an agency to plan and administer disaster preparedness programs and to improve and update disaster assistance plans, Pub. L. 93-288, Title II §20; 42 U.S.C. §5131, et seq.; and

WHEREAS: the State of Louisiana must be prepared to meet its hazard mitigation responsibilities and to respond to emergencies in the event a state of emergency or disaster is declared by either the Governor or the President;

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

SECTION 1: The Hazard Mitigation Team is re-established and continued within the Military Department, Office of Emergency Preparedness.

SECTION 2: The Hazard Mitigation Team shall be composed of representatives appointed from the following state agencies:

- A. Department of Military, Office of Emergency Preparedness;
- B. Department of Transportation and Development;
- C. Department of Wildlife and Fisheries;
- D. Department of Environmental Quality;
- E. Division of Administration, Office of State Planning;
- F. Department of Natural Resources, Office of Mineral Resources, Geological Survey Division;
- G. Department of Health and Hospitals;
- H. Department of Economic Development;
- I. Department of Corrections; and
- J. LSU Cooperative Extension Service.

SECTION 3: The Chair of the Hazard Mitigation Team shall be the Adjutant General of the Office of Emergency Preparedness, Department of Military.

SECTION 4: The duties and functions of the Hazard Mitigation Team shall include, but are not limited to, the following:

- A. advising and assisting the Office of Emergency Preparedness in updating and improving its disaster assistance and emergency preparedness plans for the State of Louisiana;
- B. identifying areas within the State of Louisiana which are more vulnerable than others to the occurrence of emergency situations or disasters;
- C. recommending safety measures which can be implemented, through zoning or building controls or through constructions, to either eliminate or reduce the occurrence of emergencies or disasters, or the impact the disasters and emergency situations have upon the public; and
- D. being prepared to identify the following matters immediately following a gubernatorial or presidential declaration of disaster or state of emergency:
 1. the hazard mitigation measures which must be incorporated into the recovery process;
 2. the funding available under the Hazard Mitigation Grant Program, and all other disaster assistance programs; and
 3. the technical assistance needed by local government officials to implement state and local emergency

and disaster mitigation measures and coordinate them with those of the state.

SECTION 5: The Hazard Mitigation Team shall meet quarterly and at other times as called by the Chair. A majority of the members shall constitute a quorum for the transaction of business.

SECTION 6: Support staff for the Hazard Mitigation Team shall be provided by the Military Department. Members shall serve without compensation, but may receive reimbursement, contingent on availability of funds, for actual travel and per diem expenses, in accordance with state guidelines and procedures, and the approval of the Commissioner of Administration.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Hazard Mitigation Team in implementing the provisions of this Order.

SECTION 8: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th of October, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#011

EXECUTIVE ORDER MJF 96-50

Computer Systems Compliance

WHEREAS: computer technology is vital to the daily operation of state government;

WHEREAS: historically, computer information systems have been designed to store and process only the last two digits of dates; for example, for the year "1996," only the "96" will be stored and processed;

WHEREAS: this computer design style is expected to cause errors in a large number of computer information systems on and after Saturday, January 1, 2000;

WHEREAS: the estimated cost of resolving year 2000 errors in computer information systems is more than \$400 billion worldwide, with an average corporate impact cost of \$40 million;

WHEREAS: the State of Louisiana cannot afford to suffer an interruption of services or operations on or after January 1, 2000 due to state computer information systems being incompatible with the year 2000;

WHEREAS: a timely review of all state owned or operated computer information systems for year 2000 compliance will minimize the chance that the year 2000 will detrimentally impact on the services and operations of the state; and

WHEREAS: the potential for the occurrence of any detrimental consequences to state services and operations will be decreased if the state implements an immediate policy of acquiring and deploying only those computer information systems which are compliant with the year 2000;

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

SECTION 1: All contracts for the purchase or acquisition of computer software, data processing services, or information systems, in excess of \$5,000, by any state agency, commission, board, entity, or department, shall include a provision that any such item(s) or service(s) purchased or acquired shall be "Year 2000 compliant" on or before July 1, 1999.

SECTION 2: The term "Year 2000 compliant" as used in this Order means the information system shall not end abnormally or give incorrect results during operations prior to, during, or after the year 2000 as a result of processing, storing, or displaying any date information.

SECTION 3: The provisions of this Order shall not have an adverse affect on any contract perfected or entered into prior to the date of this Order.

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, shall evaluate the impact of the year 2000 on their current computer information system(s); determine which system(s) must be corrected or replaced as a result of the adverse impact of the year 2000 on their computer information system(s); and initiate corrective action that will be in effect on or before July 1, 1999, to ensure that their services and/or operations will not be interrupted due to the year 2000.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivisions thereof, are authorized and directed to cooperate with the implementation of the provisions of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 17th day of October, 1996.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#012

EXECUTIVE ORDER MJF 96-51

Community Development Block Grant Funds

WHEREAS: the Housing and Community Development Act of 1974, 42 U.S.C.A. § 5301, et seq., as amended, authorizes the State of Louisiana to receive and administer Community Development Block Grant (hereafter "CDBG") funds for "nontitlement areas", which are also known as "small cities";

WHEREAS: to receive these funds, a state must prepare a single consolidated plan and take responsibility for any funds distributed pursuant to the plan; and

WHEREAS: the Division of Administration is both a fiscal and an administrative arm of the Executive Branch of the State of Louisiana;

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

SECTION 1: The Division of Administration shall be the recipient of CDBG funds.

SECTION 2: The Office of Community Development, within the Division of Administration, shall administer the CDBG funds in accordance with the terms of the single consolidated plan.

SECTION 3: Upon signature of the Governor, the provisions of this Order shall be made retroactive to August 11, 1996, and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 17th day of October, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#013

EXECUTIVE ORDER MJF 96-52

HUD's Consolidated Submission Requirements

WHEREAS: the United States Department of Housing and Urban Development (hereafter "HUD") promulgated a final Rule in the *Federal Register* dated January 5, 1994, 24 CFR Part 91, et al, which requires annual submission of a single consolidated plan, performance report, and funding application submission (hereafter "consolidated submission") for all HUD community planning and development formula grant programs, including the Community Development Block Grant Program, the Emergency Shelter Grants Program, the HOME Investment Partnership Program, and the Housing Opportunities for Persons With AIDS Program; and

WHEREAS: the State of Louisiana desires to comply with HUD's annual consolidated submission requirements;

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

SECTION 1: The Division of Administration, Office of Community Development, (hereafter "OCD") shall coordinate and designate, within the parameters of state law, all departments, agencies, or other entities of the State of Louisiana which have primary responsibility for the implementation of any function associated with HUD community planning and development formula grant programs, which are required to participate in the annual consolidated submission and which are to complete research, analysis, or other activities necessary for the OCD to submit to HUD, on behalf of the State of Louisiana, the annual consolidated submission and any amendments or supplements thereto.

SECTION 2: All departments, agencies, and other entities referred to in Section 1 of this Order shall cooperate with and submit to the OCD in a timely manner all necessary or requested information and documentation needed for the State of Louisiana to comply with the HUD consolidated submission requirements.

SECTION 3: The OCD shall annually submit to HUD a consolidated submission and any amendments or supplements thereto on behalf of the State of Louisiana.

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, and any political subdivision thereof, are authorized and directed to cooperate with the OCD in implementing the provisions of this Order.

SECTION 5: Upon signature of the Governor, the provisions of this Order shall be made retroactive to August 11, 1996, and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed The Great Seal of the State of Louisiana, at the Capitol, in the city of Baton Rouge, on this 17th day of October, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#014

EXECUTIVE ORDER MJF 96-53

Comprehensive Housing Affordability Strategy

WHEREAS: the United States Cranston-Gonzales National Affordable Housing Act, 42 U.S.C.A. § 12701 et seq., affirms the nation's commitment to decent, safe, and sanitary housing for every American;

Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of October, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#015

EXECUTIVE ORDER MJF 96-54

Super Bowl XXXI at the Superdome

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

WHEREAS: the City of New Orleans and the Louisiana Superdome have successfully hosted seven Super Bowls;

WHEREAS: hosting the National Football League Super Bowl enhances the economy of the State of Louisiana and promotes a positive image for the State of Louisiana and the City of New Orleans;

WHEREAS: the National Football League has awarded Super Bowl XXXI, which will occur in January, 1997, to the City of New Orleans and the Louisiana Superdome;

WHEREAS: the Governor of the State of Louisiana is responsible for the management and operation of the Superdome pursuant to Act 541 of the 1976 Regular Session of the Louisiana Legislature, as amended;

WHEREAS: a contract for the management of the Superdome was entered into with HMC Management Corporation, an entity subsequently renamed Facilities Management of Louisiana, pursuant to Act 64 of the 1977 Regular Session of the Louisiana Legislature. This management contract was subsequently modified and extended;

WHEREAS: an agreement was 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;

WHEREAS: the contract with Facilities Management of Louisiana, as extended and modified, provides compensation for losses incurred as a result of State actions, which includes any losses that may occur as a result of inducements made to the National Football League to be awarded Super Bowl XXXI; and

WHEREAS: Executive Order Number EWE 95-32 (hereafter "EWE 95-32"), promulgated on October 20, 1995 to address the above described situation, will expire pursuant to R.S. 49:215(c) on August 11, 1996;

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

WHEREAS: to participate in the benefits of this Act, each state must submit a consolidated plan containing a comprehensive housing affordability strategy in accordance with federal requirements, 42 U.S.C.A. §12705;

WHEREAS: the Louisiana Housing Finance Agency (hereafter "LHFA") has been designated the entity within the State of Louisiana responsible for the development of a comprehensive housing affordability strategy, R.S. 40:600.6;

WHEREAS: federal guidelines require each state to certify that its consolidated plan is authorized under state law and that the state possesses the legal authority to carry out the plan, 24 CFR §91.325;

WHEREAS: the LHFA has been designated the state housing agency responsible for establishing policies for housing finance for all units, divisions, agencies, public corporations, and instrumentalities of the state involved directly or indirectly in financing single or multi-family housing, and has all powers necessary or convenient to carry out and effectuate its purpose, R.S. 40:600.6;

WHEREAS: to fulfill its purpose, R.S. 40:600.6 provides that the LHFA may sell bonds, notes, and other obligations, and may administer and allocate low-income housing tax credits allowed under Section 42 of the federal Internal Revenue Code of 1986, as amended;

WHEREAS: federal Internal Revenue Service regulations allow states to designate qualified areas as "areas of chronic economic distress" for the purpose of issuing "qualified mortgage bonds" exempt from federal income tax, 26 U.S.C.A. §143; 26 CFR §6a.103A-2; and

WHEREAS: under these federal regulations, the Governor of the State of Louisiana may commission a state official to designate "areas of chronic economic distress", 26 CFR §6a.103A-2;

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

SECTION 1: For the purpose of complying with 24 CFR §91 et seq., the Commissioner of the Division of Administration for the State of Louisiana shall be the state officer authorized to certify to the Secretary of the United States Department of Housing and Urban Development whether the consolidated plan, and any amendments or supplements thereto, is authorized under state law and whether the state possesses the legal authority to carry out the programs for which the state is seeking funding.

SECTION 2: For the purpose of complying with 26 CFR §6a et seq., the President of the LHFA, pursuant to a resolution of the Board of Commissioners of the LHFA, shall have the authority to designate, on behalf of the Governor, "areas of chronic economic distress."

SECTION 3: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

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

SECTION 1: EWE 95-32 obligated the State of Louisiana to render a performance in accordance with the terms of the four numbered paragraphs contained in that Order.

SECTION 2: Accordingly, the following provisions of EWE 95-32 shall be reenacted to provide continuous, uninterrupted effect:

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 for conducting Super Bowl XXXI at the Louisiana Superdome.

2. Facilities Management of Louisiana, Inc. shall receive an income credit equal to an amount of \$200,000 dollars to compensate it for the approximately two weeks of lost rental income resulting from the rent free status of Super Bowl XXXI.

3. Game day expenses for Super Bowl XXXI shall be paid from the operating funds of the Louisiana Stadium and Exposition District.

4. The National Football League shall be entitled to all revenues from parking, concessions, and novelty sales at the Louisiana Superdome on the day of the Super Bowl XXXI.

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

SECTION 4: Upon signature of the Governor, the provisions of this Order shall be made retroactive to August 11, 1996, and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of October, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#016

EXECUTIVE ORDER MJF 96-55

Advisory Council on Disability Affairs

WHEREAS: citizens of the State of Louisiana with disabilities have special health, safety and welfare concerns;

WHEREAS: both the State of Louisiana and the political subdivisions of this state have an affirmative duty not to discriminate against individuals with disabilities;

WHEREAS: the citizens of the State of Louisiana with disabilities and without disabilities need to be educated about the Americans with Disabilities Act;

WHEREAS: the State of Louisiana can best serve the needs of its citizens who have disabilities and the concerns of

its other citizens through a centralized and coordinated effort; and

WHEREAS: the Governor's Advisory Council on Disability Affairs was established by Executive Order to coordinate state compliance with the Americans with Disabilities Act and to advise the Governor on the needs of individuals with disabilities and on other concerns relative to that issue;

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

SECTION 1: The Governor's Advisory Council on Disability Affairs (hereafter "Advisory Council") is re-established and recreated within the Executive Department, Office of the Governor.

SECTION 2: The duties and functions of the Advisory Council shall include, but are not limited to, advising the Governor on all issues concerning citizens who have disabilities, providing assistance to the Office of Disability Affairs, coordinating state compliance with the Americans with Disabilities Act, and all other duties and functions requested by the Governor.

SECTION 3: The Governor shall appoint the Chair of the Advisory Council from its membership.

SECTION 4: The members of the Advisory Council shall be appointed by and serve at the pleasure of the Governor. The membership of the Advisory Council shall consist of the following:

- A. the Governor, or the Governor's designee;
- B. the Lieutenant Governor, or the Lieutenant Governor's designee;
- C. the Secretary of State, or the Secretary of State's designee;
- D. the Attorney General, or the Attorney General's designee;
- E. the State Treasurer, or the State Treasurer's designee;
- F. the Commissioner of Agriculture and Forestry, or the Commissioner's designee;
- G. the Commissioner of Insurance, or the Commissioner's designee;
- H. the Commissioner of Elections, or the Commissioner's designee;
- I. the State Fire Marshal, or the State Fire Marshal's designee;
- J. the Director of Facility Planning and Control, or the Director's designee;
- K. the Chair of the Developmental Disabilities Council, or the Chair's designee; and
- L. fourteen at-large members, seven of whom have disabilities.

SECTION 5: The Advisory Council shall hold an organizational meeting within 30 days of the effective date of this Order. Thereafter, the Advisory Council shall meet at regularly scheduled intervals and, if necessary, at special meetings called by the Chair.

SECTION 6: The members of the Advisory Council shall not receive compensation for their services or a per diem. Actual travel expenses may be reimbursed, contingent on the

availability of funds, in accordance with the state guidelines and procedures, upon the approval of the Commissioner of Administration.

SECTION 7: The Advisory Council shall submit a written report to the Governor of their findings annually, on or before January 5th of each year.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state or of any political subdivision thereof are authorized and directed to cooperate with the Advisory Council in implementing the provisions of this Order.

SECTION 9: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of October, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#017

EXECUTIVE ORDER MJF 96-56

Project Restore Task Force

WHEREAS: the State of Louisiana is firmly committed to protecting and restoring its coastal areas;

WHEREAS: state and local governments are faced with the increasing expense and difficulty of disposing of solid waste;

WHEREAS: large amounts of nonhazardous waste are being placed in land fills;

WHEREAS: the cost of disposing of nonhazardous waste materials is a rising expense for Louisiana citizens, businesses and industries;

WHEREAS: the State of Louisiana could benefit from using its nonhazardous waste materials as coastal restoration materials; and

WHEREAS: there is a need to research and analyze the potential of using nonhazardous waste materials and by-products for useful purposes;

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

SECTION 1: An advisory task force, to be known as the Project Restore Task Force, is re-established within the Executive Department, Office of the Governor, to research and analyze the potential of using nonhazardous waste

materials for coastal restoration projects. The project of the task force shall be known as Project Restore.

SECTION 2: The Project Restore Task Force shall:

A. advise the Governor's Office regarding measures relative to the implementation of Project Restore;

B. advise the Secretaries of the Departments of Natural Resources and of Environmental Quality on the actions, roles and responsibilities that their Departments should play in fulfilling the purpose of Project Restore; and

C. coordinate activities with the Environmental Protection Agency in accordance with requirements of the National Environmental Policy Act on Federal Actions and of the Coastal Wetlands Planning, Protection and Restoration Act procedures.

SECTION 3: The members of the Project Restore Task Force shall be appointed by and serve at the pleasure of the Governor. The membership shall be composed of the following secretaries and representatives:

A. the Secretary of the Department of Natural Resources, who shall serve as co-chair;

B. the Secretary of the Department of Environmental Quality, who shall serve as co-chair;

C. a representative of the Office of the Governor, Office of Coastal Activities;

D. a representative from each of the following divisions of state government:

1. the Department of Natural Resources, Office of Coastal Restoration and Management;

2. the Department of Environmental Quality, Office of Solid and Hazardous Waste;

3. the Department of Environmental Quality, Office of Water Resources;

4. the Department of Wildlife and Fisheries;

5. the Department of Economic Development, Recycled Products Division;

6. the Louisiana Universities Marine Consortium;

7. the Institute for Recyclable Materials, Louisiana State University;

8. Louisiana State University Sea Grant Program;

9. University of Southwestern Louisiana;

10. Department of Agriculture and Forestry, Office of Soil and Water Conservation;

11. the Institute for Environmental Studies, Louisiana State University; and

12. the Center for Energy and Environmental Studies, Southern University;

E. a representative of the Louisiana Chemical Association;

F. a representative of the Mid-Continent Oil and Gas Association;

G. a representative of the Coalition to Restore Coastal Louisiana;

H. four representatives of generators of large quantities of nonhazardous solid waste materials;

I. a representative for coastal landowners;

J. a representative of a municipality or a parish government; and

K. two at-large members.

SECTION 4: Support staff for the Project Restore Task Force and facilities for their meetings shall be provided by the Department of Environmental Quality and the Department of Natural Resources.

SECTION 5: Project Restore Task Force members shall not receive compensation, or a per diem. Nor shall they be reimbursed for travel expenses for their attendance at meetings.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of October, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#018

EXECUTIVE ORDER MJF 96-57

Private Employment Service Advisory Council

WHEREAS: R.S. 23:103 established the five member Louisiana Private Employment Service Advisory Council (hereafter "Council") within the Department of Labor;

WHEREAS: the Council is required by statute to meet at least once in each quarter of each year or upon the call of its Chair or the Assistant Secretary of the Department of Labor; and

WHEREAS: Council members do not receive compensation or a per diem for their attendance at meetings;
NOW THEREFORE I, M. J. "MIKE" FOSTER, JR., Governor of the State of Louisiana by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As R.S. 23:103, the statute which creates the Council, does not provide for compensation for its members, the members of the Council shall not receive any compensation or a per diem for their services or for their attendance at meetings. Nonetheless, contingent on the availability of funds, the actual travel expenses of the members for their attendance at meetings may be reimbursed in accordance with state guidelines and procedures, and upon the approval of the Commissioner of Administration.

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

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

Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of October, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#019

EXECUTIVE ORDER MJF 96-58

Environmental Protection Agency (EPA) Programs and Activities Review

WHEREAS: Federal Executive Order Number 12372, on Intergovernmental Review of Federal Programs, was issued on July 14, 1982, "to foster an intergovernmental partnership and a strengthened federalism by relying on state and local processes for the state and local government coordination and review of proposed federal financial assistance or direct federal development";

WHEREAS: under Executive Order Number 12372, the individual states are provided the opportunity to establish their own review and coordination procedures, which must be recognized by federal agencies; and

WHEREAS: a review process established by a state can cover all federal activities, or only some activities, depending on the priorities of the state and its local officials;

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

SECTION 1: The State of Louisiana selects for its review all Environmental Protection Agency (hereafter "EPA") programs and activities which are available to it for review.

SECTION 2: Pursuant to Federal Executive Order Number 12372, the Secretaries of the Departments of Environmental Quality, of Agriculture and Forestry, and of Health and Hospitals, or the designees of those Secretaries, shall act as the state's single point of contact for coordinating the review process for EPA financial assistance or direct federal development.

SECTION 3: In coordinating the review process, the Secretaries or their designees shall notify all Regional Planning Commissions of all statewide projects regarding the EPA programs and federal activities that are available, receive their comments, and duly consider their comments. However, the Secretaries or their designees shall not be required to obtain permission or approval from any Regional Planning Commission prior to implementing any action.

SECTION 4: Upon signature of the Governor, the provisions of this Order shall be made retroactive to August 11, 1996, and shall remain in effect until amended,

modified, terminated, or rescinded by the Governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of October, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#020

EXECUTIVE ORDER MJF 96-59

Child Care and Development Block Grant Advisory Council

WHEREAS: high quality child care is an important objective of the governments of both the United States and the State of Louisiana;

WHEREAS: the United States Congress passed the Child Care and Development Block Grant Act of 1990 (hereinafter "the Act") to provide funds to the states in order to increase the availability, the affordability, and the quality of child care, through the use of grants, contracts, and certificates for child care services;

WHEREAS: the State of Louisiana is a participant in the Child Care and Development Block Grant Program and is a recipient of block grant funds under the Act; and

WHEREAS: the State of Louisiana may achieve optimum use of the block grant funds it receives by utilizing an advisory council to advise the Department of Social Services regarding the recent developments in the field of child care, the concerns of parents who have children in day care, and the needs of child day care facilities within the state;

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

SECTION 1: The Advisory Council on the Child Care and Development Block Grant Program (hereafter "Advisory Council"), is re-established and recreated within the Department of Social Services.

SECTION 2: The Advisory Council shall be composed of 11 voting members and three ex-officio, nonvoting members who shall be appointed by and serve at the pleasure of the Governor.

The voting membership of the Advisory Council shall represent the following agencies, organizations, and special interest groups:

- A. nonprofit, family-oriented organizations domiciled within the geographic boundaries of Greater New Orleans;
- B. nonprofit, family-oriented organizations domiciled within the geographic boundaries of North Louisiana;
- C. the Louisiana Head Start Association;

D. the Louisiana Association for the Education of Young Children;

E. child development programs at a Louisiana college or university;

F. child care providers who provide services within the State of Louisiana;

G. registered day care providers operating within the State of Louisiana;

H. parents with at least one child who is currently receiving care at a day care facility;

I. church-operated day care centers operating within the State of Louisiana;

J. trainers of child day care providers within the State of Louisiana; and

K. the Louisiana Council on Child Abuse.

The ex-officio, non-voting membership of the Advisory Council shall be as follows:

A. the Secretary of the Department of Social Services, or the Secretary's designee;

B. the Director of the Bureau of Licensing, Department of Social Services, or the Director's designee; and

C. the Secretary of the Department of Education, or the Secretary's designee.

SECTION 3: The voting members of the Advisory Council shall elect a Chair from among their voting membership.

SECTION 4: The Advisory Council shall operate only in an advisory capacity. Its duties and functions include, but are not limited to, the following:

A. making recommendations to the Secretary of the Department of Social Services regarding the expenditure and disbursement of Child Care and Development Block Grant Funds;

B. making recommendations to the Secretary of the Department of Social Services for improving, modernizing, and updating the quality of child care at the day care centers which operate within the State of Louisiana; and

C. assisting the Department of Social Services in updating its long range plans for insuring quality child care at day care centers operating within the State of Louisiana.

SECTION 5: The members of the Advisory Council shall not receive compensation or a per diem for their services or their attendance at meetings. However, contingent on the availability of funds, the actual travel expenses of the members may be reimbursed in accordance with state guidelines and procedures, and upon approval of the Commissioner of Administration.

SECTION 6: Support staff for the Advisory Council and facilities for their meetings shall be provided by the Department of Social Services.

SECTION 7: All departments, commissions, boards, agencies, and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate with the Advisory Council in implementing the provisions of this Order.

SECTION 8: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of October, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#021

EXECUTIVE ORDER MJF 96-60

Multiple-Drug Resistant Tuberculosis Task Force

WHEREAS: tuberculosis is a contagious disease which poses a serious health threat in both civilian and penal populations;

WHEREAS: the treatment of tuberculosis is complicated and lengthy, and patients require constant monitoring;

WHEREAS: inadequate treatment by physicians, noncompliance with prescribed treatment by patients, and inappropriate management of tuberculosis leads to drug-resistant strains of tuberculosis, which spread through the air to noninfected citizens;

WHEREAS: it is essential that steps be taken to protect the public by containing the spread of tuberculosis and preventing the development of drug-resistant tuberculosis; and

WHEREAS: the Governor's Task Force on Multiple-Drug Resistant Tuberculosis, created by Executive Order Number EWE 92-64, made significant advances toward the control of tuberculosis in this state, nonetheless, more advancements must still be made;

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

SECTION 1: The Governor's Task Force on Tuberculosis (hereafter "Task Force") shall be created within the Executive Department, Office of the Governor.

SECTION 2: The duties and functions of the Task Force shall include, but are not limited to, continuing the efforts of the former Task Force on Multiple-Drug Resistant Tuberculosis; identifying and examining all issues necessary to combat the disease of tuberculosis in Louisiana; recommending viable solutions to the problems raised by those issues; evaluating existing measures and proposed measures which are designed to combat all forms of tuberculosis in Louisiana; and any other duties and functions designated by the Governor.

SECTION 3: The Task Force shall consist of 30 members who shall be appointed by and serve at the pleasure of the Governor. Membership of the Task Force shall be selected as follows:

A. the President of the Louisiana Senate, or the President's designee;

B. the Speaker of the Louisiana House of Representatives, or the Speaker's designee;

C. the Secretary of the Louisiana Department of Health and Hospitals, or the Secretary's designee;

D. the Assistant Secretary of the Louisiana Department of Health and Hospitals, Office of Alcohol and Drug Abuse, or the Assistant Secretary's designee;

E. the Assistant Secretary of the Louisiana Department of Health and Hospitals, Office of Mental Health, or the Assistant Secretary's designee;

F. the Assistant Secretary of the Louisiana Department of Health and Hospitals, Office of Public Health, or the Assistant Secretary's designee;

G. the Medical Director of the Louisiana Department of Health and Hospitals, Office of Public Health, Tuberculosis Control Program, or the Medical Director's designee;

H. the Administrative Director of the Louisiana Department of Health and Hospitals, Office of Public Health, HIV Program Office, or the Administrative Director's designee;

I. the Administrator of the Louisiana Department of Health and Hospitals, Office of Public Health, Tuberculosis Control Program, or the Administrator's designee;

J. the Secretary of the Louisiana Department of Public Safety and Corrections, or the Secretary's designee;

K. the Chief Judge of the Twentieth Judicial District Court, Parishes of East and West Feliciana, or the Chief Judge's designee;

L. the Dean of the Louisiana State University School of Medicine in New Orleans, or the Dean's designee;

M. the Dean of the Louisiana State University School of Medicine in Shreveport, or the Dean's designee;

N. the Chief of the Laboratory Research Branch, J. W. Long Hansen's Disease Center at L.S.U., Baton Rouge, or the Chief's designee;

O. the Director of the City of New Orleans Department of Health, or the Director's designee;

P. the Chief Executive Officer of the Alton Ochsner Medical Foundation, or the Chief Executive Officer's designee;

Q. the President of the American Academy of Pediatrics, Louisiana Chapter, or the President's designee;

R. the Executive Director of the American Lung Association of Louisiana, or the Executive Director's designee;

S. the Executive Director of the Louisiana District Attorneys Association, or the Executive Director's designee;

T. the President of the Louisiana Family Physicians Association, or the President's designee;

U. the Chief Executive Officer of the Louisiana Health Care Authority, or the Chief Executive Officer's designee;

V. the President of the Louisiana Hospital Association, or the President's designee;

W. the President of the Louisiana Medical Association, or the President's designee;

X. the Executive Director of the Louisiana Nursing Home Association, or the Executive Director's designee;

Y. the Executive Director of the Louisiana Sheriffs' Association, or the Executive Director's designee;

Z. the President of the Louisiana State Medical Society, or the President's designee;

AA. the Executive Director of the Louisiana State Nurses Association, or the Executive Director's designee;

BB. the Dean of the Tulane University School of Medicine, or the Dean's designee;

CC. one member nominated by organizations providing care to homeless individuals; and

DD. one member at-large.

SECTION 3: the State Health Officer shall serve as the Chair of the Task Force. The Governor shall appoint two Vice-Chairs for the Task Force from its membership.

SECTION 4: The Task Force shall report its findings and recommendations annually, by January 5 of each year, to the Governor through the Secretary of the Department of Health and Hospitals.

SECTION 5: The members of the Task Force shall not receive compensation for their services or a per diem. However, the actual travel expenses of Task Force members may be reimbursed, contingent upon the availability of funds, in accordance with state guidelines and procedures, upon the approval of the Commissioner of Administration.

SECTION 6: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Task Force in implementing the provisions of this Order.

SECTION 7: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 17th day of October, 1996.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#022

EXECUTIVE ORDER 96-61

Bond Allocation—Parish of Caddo
Industrial Development Board

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1996 (hereafter "the 1996 Ceiling"); (2) the procedure for

obtaining an allocation of bonds under the 1996 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Industrial Development Board of the Parish of Caddo, Inc., has requested an allocation from the 1996 Ceiling to be used in connection with the financing of the acquisition, construction, and installation of certain solid waste disposal and sewage treatment facilities (the "Project") at the existing refinery at Atlas Processing Company, a wholly owned subsidiary of Pennzoil Products Company, which is a wholly owned subsidiary of Pennzoil Company, located in Shreveport, Caddo Parish, Louisiana;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1996 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$15,500,000	Industrial Development Board of the Parish of Caddo	Atlas Processing Co. or Pennzoil Products Co.

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 27, 1996.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 21st day of October, 1996.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9611#023

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Boll Weevil Eradication Commission

Definitions; Red River Eradication Zone; Cotton Acreage;
and Program Participation
(LAC 7:XV.9903, 9914, 9919, and 9921)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:1609 and R.S. 3:1613, the Louisiana Boll Weevil Eradication Commission declares an emergency to exist and adopts by emergency process the following Rule setting forth definitions, creating a Red River Eradication Zone, reporting of cotton acreage, and fee payment in the Boll Weevil Eradication Program. This emergency adoption is necessary in order to prevent imminent peril to the health, safety or welfare of the citizens of Louisiana for the reasons set forth below:

The boll weevil is a pest which is destructive to the commercial crop of cotton and such destruction has persisted over decades despite use of control measures. The cost of destruction to the crop and the cost of efforts to control the boll weevil currently exceed \$30 per acre of cotton which is a cost sufficiently high to eliminate profit for some producers. Both the cost of destruction to the crop and cost of control efforts have risen and continue to do so. It is federal policy as well as the policy of the State of Louisiana to eradicate the boll weevil. The federal government has an eradication program which provides cost subsidies to participating states. The federal eradication program sets timelines for states to participate in the program. Failure of Louisiana to meet the federal timeline jeopardizes the much needed subsidy which could put at risk Louisiana's eradication program. Most cotton producing states are participating in the federal eradication program, in their own state eradication program, or in both eradication programs. Failure of Louisiana to achieve eradication of the boll weevil concurrently with other cotton producing states which do achieve eradication may cause Louisiana to be quarantined thus restricting the movement of cotton, equipment, and other regulated articles from the state.

Louisiana's eradication program is essential to the health, safety and welfare of the citizens of this state. Failure to adopt and amend these rules on an emergency basis would jeopardize Louisiana's ability to meet the federal timeline and could result in a loss to Louisiana of the federal subsidy threatening the ability of Louisiana to conduct the eradication program. Failure to adopt these rules on an emergency basis could also place Louisiana producers at an economic disadvantage when dealing with other cotton producing states which are participating in eradication programs and thus threaten Louisiana's ability to eradicate the Boll Weevil.

The effective date of this Emergency Rule is October 18, 1996, 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 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 99. Boll Weevil

§9903. Definitions Applicable to Boll Weevil

ASCS—the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture, now known as FSA (Farm Service Agency).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:

§9914. Red River Eradication Zone: Creation

A. There is hereby created an eradication zone which shall hereafter be known as the Red River Eradication Zone.

B. The Red River Eradication Zone shall consist of all those territories within the boundaries of the following parishes: Acadia, Avoyelles, Bienville, Bossier, Caddo, Claiborne, DeSoto, East Baton Rouge, Evangeline, Grant, Natchitoches, Pointe Coupee, Rapides, Red River, St. Landry, St. Tammany, Webster, West Baton Rouge, West Feliciana.

C. The effective date of the establishment of the Red River Eradication Zone shall be effective immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:

§9919. Reporting of Cotton Acreage

C. Noncommercial cotton shall not be planted in an Eradication Zone unless an application for a written waiver has been submitted in writing to the Commissioner stating the conditions under which such written waiver is requested, and unless such written waiver is granted by the Commissioner. The Commissioner's decision to grant or deny a written waiver for noncommercial cotton shall include consideration of the location, size, pest conditions, accessibility of the growing area, any stipulations set forth in any compliance agreement between the applicant and the Commissioner, and any other factors deemed relevant to effectuate the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1607 and R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:

§9921. Program Participation, Fee Payment and Penalties

Upon passage of the referendum, all cotton producers growing cotton in an Eradication Zone shall be required to participate in the eradication program as follows:

1. Each year, during the first five years of the program, cotton producers shall submit to the ASCS Office the annual assessment as set by the Commission following the adjudicatory procedure of the Administrative Procedure Act, which assessment shall not exceed \$10 per acre the first year and \$35 per acre for each of the remaining years, for each acre of certified cotton acreage on file with ASCS.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, R.S. 3:1612, and R.S. 3:1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995); amended LR 21:669 (July 1995); LR 23:

Dan P. Logan, Jr.
Chairman

9611#007

DECLARATION OF EMERGENCY

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

Sanitary Disposal of Dead Poultry (LAC 7:XXI.11701 and 11771)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093, and R.S. 3:2095, the Commissioner of Agriculture and Forestry finds that this Emergency Rule setting forth the regulations governing the sanitary disposal of dead poultry is necessary for the health and safety of the citizens of Louisiana. The Commissioner has discovered that certain Subsections of §11771 of the Livestock Sanitary Board regulations which outline the approved methods for the sanitary disposal of dead poultry were deleted through a clerical error which occurred during an amendment of that Section which took place in August, 1994. The lack of approved methods of sanitary disposal of dead poultry and the resultant disposal of dead poultry through unapproved methods would cause imminent peril to public health, safety, and welfare of the citizens of this state in that other, unsanitary, disposal methods may be employed and could result in a health crisis in Louisiana. In order to insure that sanitary disposal of dead poultry remains in place and uninterrupted pending final adoption of this Rule through the normal promulgation process, the Commissioner declares an emergency to exist and adopts by emergency process the following Rule setting forth the sanitary disposal of dead poultry.

The effective date of this Emergency Rule is October 25, 1996, and it shall be in effect for 120 days or until the final Rule takes effect through the normal promulgation process, whichever occurs first.

Title 7 AGRICULTURE AND ANIMALS Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board Subchapter A. General Provisions

§11701. Definitions

* * *

Digester—a specially designed water tight system which is buried in the ground below the frost line and has the ability and strength to hold liquid, without leakage or seepage, and is used to dispose of dead poultry through use of bacteria.

* * *

Subchapter D. Poultry

§11771. Governing the Sanitary Disposal of Dead Poultry

A. All commercial poultry producers are required to obtain a certificate of approval. Failure to obtain a certificate shall be considered a violation of this regulation. Certificates of approval are continuous, but subject to review and cancellation should the poultry producer fail to dispose of dead poultry in accordance with this regulation.

B. Dead poultry must be removed from the presence of live poultry without delay. The carcasses, parts of carcasses and offal must be held in covered containers until disposal is made by one of the approved methods. In no instance, however, will the storage of dead poultry be allowed to create sanitary problems. Commercial poultry producers shall be required to dispose of dead poultry by one of the following methods:

1. Disposal Pits. Disposal pits shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. Disposal pits that are currently in use will be allowed to operate until July 1, 1997.

2. Incinerators. Incinerators shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. The design and construction must be approved by an authorized representative of the Livestock Sanitary Board.

3. Rendering Plant. Dead poultry, parts of carcasses and poultry offal may be transported in covered containers to approved rendering plants. Poultry carcasses may be held on the premises of commercial poultry producers as long as the storage does not create a sanitary problem. All such methods of storage and transportation of dead poultry to approved rendering plants must be approved by an authorized representative of the Livestock Sanitary Board.

4. Composting. The design, construction, and use of compost units must be approved by an authorized representative of the Livestock Sanitary Board.

5. Digesters. Poultry digesters may be used if the following conditions are met:

a. the design, construction, location, and use of digesters must be approved by an authorized representative of the Livestock Sanitary Board;

b. the bacteria being used in the digester must be approved by an authorized representative of the Livestock Sanitary Board;

c. the digester must be maintained according to recommendations of an authorized representative of the Livestock Sanitary Board.

C. In the event of the death of more than 1 percent of broilers or 0.5 percent of pullets or breeders over four weeks of age on the same premises within a 24-hour period of time, the death of which is not known to be caused by a contagious or infectious disease, the dead poultry may be disposed of by on-site burial. The State Veterinarian's Office must be notified immediately by telephone or facsimile in the event of excessive mortality requiring on-site burial.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 17:874 (September 1991), LR 18:1355 (December 1992), LR 20:550 (August 1994), LR 23:

Bob Odom
Commissioner

9611#002

DECLARATION OF EMERGENCY

Department of Economic Development Office of Commerce and Industry Business Incentives Division

Enterprise Zone Program—Advance Notification and
Timely Filing (LAC 13:I.918)

The Department of Economic Development is exercising the emergency provision of the Administrative Procedure Act, R.S.49:953(B) to implement the following Emergency Rule of the Enterprise Zone Program. The emergency provision is used to adopt this Rule because of a recognized immediate need to prevent the further refunding of certain ineligible state sales taxes.

Without these emergency rules, the public welfare is likely to be harmed as a result of disruptions in the effective manner in which state sales taxes are refunded under the Enterprise Zone program particularly for budget planning. This Emergency Rule is intended to mitigate the these disruptions.

This Emergency Rule will become effective on November 15, 1996, and shall remain in effect for a period of 120 days or until a final Rule is promulgated, whichever occurs first.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 1. Finance

Chapter 9. Enterprise Zone Program

§918. Advance Notification, Timely Filing

A. An Advance Notification received by the Office of Commerce and Industry after the beginning of the project's construction, will obligate the company to file written reason(s) for the late filing. Lack of knowledge of the existence of the Enterprise Zone Program or its benefits will not be accepted as a valid reason for waiving the timely filing requirement and will result in the return of the filing fee. However, the Board will only accept reasons that fall within

the following two categories in determining if it will consider waiving the late filing:

1. events beyond control of the applicant caused the late filing; or

2. there was some fault or error on behalf of the Business Incentives Division that caused the company's late filing.

B. Only after receiving the Board's waiver of timely filing of the Advance Notification will the following apply:

1. If the Advance Notification is received by the Office of Commerce and Industry during the construction period shown on that form, the sales tax rebate will begin the day the Advance Notification with the correct filing fee is received by the Office of Commerce and Industry. The new jobs tax credits, however, may be calculated from the first day that construction began but no earlier.

2. If the Advance Notification is filed after the construction period listed on the Advance Notification form has passed, the company will not be eligible for sales tax rebates. However, the new jobs tax credits may be calculated from the first day the construction began but no earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1756(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Incentives Division, LR 23:

Harold Price
Assistant Secretary

9611#060

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)
(AQ126E3)

In accordance with the emergency 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 on November 2, 1996, and shall remain in effect for a maximum of 120 days or until

the Department of Environmental Quality adopts a chemical accident prevention Rule, whichever occurs first.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5902. General Duty

The owners and operators of stationary sources producing, processing, handling, or storing substances listed in LAC 33:III.5905.Tables 59.1 and 59.2, mentioned in LAC 33:III.5905.A, or listed in Table 59.3, have a general duty in the same manner and to the same extent as Section 654 of Title 29 of the United States Code (Occupational Safety and Health Act) to identify hazards that may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility, and to minimize the consequences of accidental releases of such substances that do occur. For the purposes of this Section the provisions of R.S. 30:2026 (Citizen Suits) shall not be available to any person or otherwise be construed to be applicable to this Section. Nothing in this Section shall be interpreted, construed, implied, or applied to create any liability or basis for suit for compensation for bodily injury or any other injury or property damages to any person that may result from accidental releases of such substances.

Table 59.3

Supplemental List of Regulated Substances and their Threshold Quantities for Accidental Release Prevention

CAS Number	Chemical Name	Threshold planning quantity (pounds)
Varies	Alkylaluminums	5000
107-05-1	Allyl chloride	1000
7790-98-9	Ammonium perchlorate	7500
7787-36-2	Ammonium permanganate	7500
13863-41-7	Bromine chloride	1500
7789-30-2	Bromine pentafluoride	2500
7787-71-5	Bromine trifluoride	15000
106-96-7	Bromopropyne (3-) (Propargyl bromide)	100
75-91-2	Butyl hydroperoxide (tertiary)	5000
614-45-9	Butyl perbenzoate (tertiary)	7500
353-50-4	Carbonyl fluoride	2500
9004-70-0	Cellulose nitrate (Conc>12.6 percent nitrogen)	2500

13637-63-3	Chlorine pentafluoride	1000
7790-91-2	Chlorine trifluoride	1000
97-00-7	Chloro-2,4-dinitrobenzene (1-)	5000
96-10-6	Chlorodiethylaluminum	5000
76-06-2	Chloropicrin	500
None	Chloropicrin and methyl bromide mixture	1500
None	Chloropicrin and methyl chloride mixture	1500
80-15-9	Cumene hydroperoxide	5000
675-14-9	Cyanuric fluoride	100
110-22-5	Diacetyl peroxide (Conc>70 percent)	5000
334-88-3	Diazomethane	500
94-36-0	Dibenzoyl peroxide	7500
110-05-4	Dibutyl peroxide (tertiary)	5000
7572-29-4	Dichloro acetylene	250
557-20-0	Diethylzinc	10000
105-64-6	Diisopropyl peroxydicarbonate	7500
105-74-8	Dilauroyl peroxide	7500
97-02-9	Dinitroaniline (2,4-)	5000
1338-23-4	Ethyl methyl ketone peroxide (Conc>60 percent)	5000
371-62-0	Ethylene fluorohydrin	100
684-16-2	Hexafluoroacetone	5000
10035-10-6	Hydrogen bromide	5000
7722-84-1	Hydrogen peroxide (conc>=52 percent by weight)	7500
7803-49-8	Hydroxylamine	2500
463-51-4	Ketene	100
78-85-3	Methacrylaldehyde	1000
920-46-7	Methacryloyl chloride	150
30674-80-7	Methacryloyloxyethyl isocyanate	100
74-83-9	Methyl bromide	2500
453-18-9	Methyl fluoroacetate	100
421-20-5	Methyl fluorosulfate	100
74-88-4	Methyl iodide	7500

79-84-4	Methyl vinyl ketone	100
100-01-6	Nitroaniline(p-)	5000
7783-54-2	Nitrogen trifluoride	5000
10544-73-7	Nitrogen trioxide	250
75-52-5	Nitromethane	2500
20816-12-0	Osmium tetroxide	100
7783-41-7	Oxygen difluoride	100
19624-22-7	Pentaborane	100
7601-90-3	Perchloric acid (Conc>60 percent by weight)	5000
7616-94-6	Perchloryl fluoride	5000
627-13-4	Propyl nitrate	2500
107-44-8	Sarin	100
7783-79-1	Selenium hexafluoride	1000
7803-52-3	Stibine (Antimony hydride)	500
5714-22-7	Sulfur pentafluoride	250
7783-80-4	Tellurium hexafluoride	250
10036-47-2	Tetrafluorohydrazine	5000
7719-09-7	Thionyl chloride	250
1558-25-4	Trichloro(chloromethyl)silane	100
27137-85-5	Trichloro(dichlorophenyl)silane	2500
2487-90-3	Trimethoxysilane	1500

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5903. Definitions

The terms in this Chapter are used as defined in LAC 33:III.111 except those terms specifically defined in an applicable subchapter or defined herein as follows:

[See Prior Text]

BATF—the Bureau of Alcohol, Tobacco, and Firearms.

CAS—Chemical Abstract Service.

Covered Process—a process that has a regulated substance present in more than a threshold quantity as determined under LAC 33:III.5905.

Full-time Employee—2,000 hours per year of full-time equivalent employment. A source would calculate the number of full-time employees by totaling the hours worked during the calendar year by all employees, including contract employees, and dividing that total by 2,000 hours.

Major Stationary Source—for the purposes of LAC 33:III.5901, 5902, 5903, and 5911, a stationary source that is classified or would be classified as an A-1 or A-2 source in the Compliance Data System (CDS) maintained by the Department, that emits or has the potential to emit 25 tons per year or more of a criteria pollutant (VOC, NO_x, CO, SO₂, PM₁₀, or lead); for the purposes of all other portions of LAC 33:III. Chapter 59, a stationary source that is classified or would be classified as an A-1 or A-2 source in the Compliance Data System (CDS) maintained by the Department, that emits or has the potential to emit 25 tons per year or more of a criteria pollutant (VOC, NO_x, CO, SO₂, PM₁₀, or lead), and in addition has a covered process in Standard Industrial Classification (SIC) Code 2611, 2812, 2819, 2821, 2869, 2873, 2879, or 2911.

Mitigation System or Mitigation—activities, technologies, or equipment that is designed to capture or control substances after they are released to the environment or upon loss of containment. Passive mitigation means equipment, devices, or technologies that function without human, mechanical, or other energy input.

[See Prior Text]

Process—any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances or combinations of these activities, identified by its intended primary activity. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release from those separate vessels, may be considered a single process.

[See Prior Text]

Regulated Substance—any substance listed in the Chapter 59 tables or an explosive classified by the U.S. Department of Transportation as Division 1.1 (49 CFR part 172.102) that is defined as an explosive that has a mass explosion hazard.

[See Prior Text]

Stationary Source—any buildings, structures, equipment, installations, or substance emitting stationary activities:

- which belong to the same industrial group;
- which are located on one or more contiguous properties;
- which are under the control of the same person (or persons under common control); and
- from which an accidental release may occur.

[See Prior Text]

Worst-Case Release—the release of one or more regulated substances that has the worst off-site consequences determined by hazard assessment as specified in LAC 33:III.5913. This must be determined by using good engineering judgment. The owner or operator shall first consider the case of the release of the largest quantity of a regulated substance resulting from a single vessel failure or single process line failure. The owner or operator shall also

consider the release of a possibly smaller quantity of a regulated substance resulting from a single vessel failure or single process line failure from a vessel or process line in closer proximity to the property line. In determining the worst-case release the owner or operator shall consider the effect of an explosion on nearby vessels and include their contents in the release, if appropriate, or provide documentation if there is no additional impact. Hazard assessments including dispersion modeling of several cases may be required to determine the worst-case release. It shall be assumed that well-designed and well-maintained passive mitigation systems function, but active mitigation systems fail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:

§5905. Threshold Determination

A. More than a threshold quantity of a regulated substance as listed in Table 59.1 or 10,000 pounds of any regulated substance listed in 59.2 is present at a major stationary source if the total quantity of the regulated substance contained in a process exceeds the threshold quantity. Crude oil and petroleum fractions shall not be considered single compounds, even if they have been assigned CAS numbers. More than a threshold quantity of an explosive is present at a major stationary source if the total quantity present on-site exceeds 5,000 pounds and if it is classified by the U.S. Department of Transportation as Division 1.1 (49 CFR part 172.102), that is, defined as an explosive that has a mass explosion hazard.

B. For the purposes of determining whether more than a threshold quantity of a regulated substance is present at the major stationary source, the following applies:

* * *

[See Prior Text in B.1-6.c]

7. Specific Exemptions

a. Regulated materials that are under active shipping papers (i.e., have not reached their final destination) are exempt provided that:

i. shipping documents are readily accessible to emergency response personnel and proximate to the regulated material; and

ii. all regulated material is properly marked and placarded according to applicable U.S. Department of Transportation regulations as listed in 49 CFR 172 (Hazardous Materials Tables, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), Subparts B, C, D, E, and F.

b. Pipelines, transfer stations, and other activities regulated by the U.S. Department of Transportation under 49 CFR 192, 193, and 195 (Transportation of Natural and Other Gas by Pipeline, Liquified Natural Gas Facilities, and Transportation of Hazardous Liquids by Pipeline) as transportation of hazardous substances by pipeline or incident to such transportation are exempt. However, loading and unloading equipment for shipping and bulk storage associated with such equipment shall not be exempt.

TABLE 59.1		
THE LIST OF REGULATED TOXIC SUBSTANCES AND THEIR THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION (ALPHABETICAL ORDER)		
CAS Number	Chemical Name	Threshold planning quantity (pounds)
* * * [See Prior Text in Acrolein-Nitric Oxide]		
10544-72-6	Nitrogen Tetroxide	250
* * * [See Prior Text in Oleum-Table 59.2]		

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:422 (April 1994), amended LR 22:

§5909. Applicability

A. Tier 1. The owner or operator of a major stationary source with a covered process as defined in LAC 33:III.5903 that meets the eligibility criteria of LAC 33:III.5912.A shall comply for that covered process with LAC 33:III.5911 by the date specified therein and LAC 33:III.5912.A no later than November 8, 1998.

B. Tier 2. Except as provided in Subsections A, C, and D of this Section, the owner or operator of a major stationary source with a covered process shall comply for that covered process with LAC 33:III.5911 by the date specified therein and LAC 33:III.5912.B no later than November 8, 1998.

C. Tier 3. Except as provided in Subsection A of this Section, the owner or operator of a major stationary source with 100 or more full-time employees shall comply with LAC 33:III.5911 at the date specified therein and LAC 33:III.5913-5941 no later than November 8, 1998 for any covered process in Standard Industrial Classification (SIC) Code 2611, 2812, 2819, 2821, 2869, 2873, 2879, or 2911. For all other covered processes at the major stationary source, the owner or operator shall comply with LAC 33:III.5911 at the date specified therein and LAC 33:III.5912.B no later than November 8, 1998.

D. Deferred Tier 3. Except as provided in Subsection A of this Section, the owner or operator of a major stationary source that has 20 or more full-time employees, but less than 100 full-time employees and a covered process in SIC Code 2812, 2819, 2869, 2873, or 2911 shall:

1. comply for that covered process with LAC 33:III.5911 at the date specified therein and LAC 33:III.5912.B no later than November 8, 1998; and

2. comply for that covered process with LAC 33:III.5911 at the date specified therein and LAC 33:III.5913-5941 no later than November 8, 2003.

E. Facility Tier Assignment. The overall facility (the major stationary source) shall be assigned to the same tier as the process having the most stringent tier assignment in the major stationary source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:426 (April 1994), amended LR 22:

§5911. Registration

* * *

[See Prior Text in A]

B. The registration shall include the following:

1. the name of the major stationary source, and its street address, mailing address, parish name, and telephone number;

* * *

[See Prior Text in B.2-4]

5. the name, address, and telephone number of a knowledgeable contact person with overall responsibility as referenced in LAC 33:III.5917.B;

6. the following certification signed by the owner or operator:

"The undersigned certifies that, to the best of my knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete";

7. registrations after the date consistent with rules developed under section 112(r) of the federal Clean Air Act Amendments of 1990 shall include the additional phrase:

"I certify that I prepared or caused to be prepared a risk management plan that complies with 40 CFR 68.50" [and, when applicable: "and the provisions of 40 CFR 68.60"] "and that I submitted or caused to be submitted copies of the risk management plan to each of the entities listed in 40 CFR 68.50(a)."

[Signature];

8. the total number of full-time employees at the major stationary source;

9. the list of the processes at the major stationary source with the SIC code, Louisiana permit number (if any), CDS number (if known), the latitude and longitude of the facility and each process, the universal transverse mercator (UTM) coordinates of the facility (if known), the A-1 or A-2 classification of the facility, and tier assignment, according to LAC 33:III.5909, of each process and facility;

10. the name, address, and telephone number of a contact person who is responsible for invoicing; and

11. the company name (if different from the source name) and its mailing address and telephone number.

C. If at any time after the submission of the registration, information in the registration is no longer accurate, the owner or operator shall submit an amended registration within 60 days to the administrative authority* and the Department. However, major stationary sources that registered under this Section prior to November 8, 1995 have until March 7, 1996 to supply the information required in Subsection B.1, 8, 9, 10 and 11 of this Section. After a final determination of necessary revisions under LAC 33:III.5943.F, the owner or operator shall register the revised risk management plan by the date required in LAC 33:III.5943.G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:426 (April 1994), amended LR 22:

Subchapter B. Risk Management Program Requirements

§5912. Simplified Compliance for Certain Major Stationary Sources

A. No-impact Sources (Tier 1)

1. Sources That Exceed a Threshold Quantity Only for Flammable or Explosive Regulated Substances

a. Eligibility. The owner or operator of a major stationary source that is subject to this Chapter and that does not exceed the threshold quantity for a toxic substance shall comply with Subsection A.1.b of this Section if the source has not had a significant accidental release for five years preceding November 8, 1995 and:

i. for a source that exceeds the threshold for an explosive regulated substance, the source is subject to 27 CFR part 55 (Alcohol, Tobacco Products, and Firearms; Commerce in Explosives) or 30 CFR part 56, 57, or 77 (Mineral Resources; Safety and Health Standard - Surface Metal and Nonmetal Mines; Safety and Health Standard - Underground Metal and Nonmetal Mines; Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of Underground Coal Mines) and the distance from the process to a public or environmental impact is not closer than the distance to inhabited buildings provided in the American Table of Distances (27 CFR 55.218, Alcohol, Tobacco Products, and Firearms; Commerce in Explosives; Storage; Table of Distances for Storage of Explosive Material) for the quantity of explosives in the process; or

ii. for a source that exceeds the threshold for a flammable regulated substance, the distance from the point of release under the worst-case release scenario to a public or environmental impact is greater than the distance as calculated using the following formula for the maximum quantity present in the process:

$$Distance(meters) = 0.15 \times (0.1 \times mass \times hc)^{\frac{1}{3}}$$

Where:

mass = quantity of flammable substance in kilograms

hc = heat of combustion in joules per kilogram.

b. Program and Plan Requirements

i. The owner or operator shall place a sign at all normal access routes that warns the public and emergency responders concerning the hazard presented by the regulated substance at the site and provides an emergency contact telephone number. Such a sign shall be in English and any other language commonly spoken as a primary language in the area.

ii. The owner or operator shall submit the following as a risk management plan to the Department, the Louisiana Emergency Response Commission, and the Local Emergency Planning Committee (LEPC) with jurisdiction for the area where the source is located:

(a). a copy of the registration required by LAC 33:III.5911 (this copy may be dated before the certification required by LAC 33:III.5911.B.6);

(b). the following statement:

"Based on the criteria in LAC 33:III.5912.A.1.a, the worst-case accidental release for the source described on the attached form (registration) presents no potential for public or environmental impact, given the nature of the process and the chemicals stored at the source. For the past five years this source has not had a significant accidental release, as defined in LAC 33:III.5903. No additional measures are necessary to prevent public and environmental impacts from accidental releases. In the event of a fire or a release of the regulated substance indicated on the registration, entry within [distance for a given quantity of regulated substance under American Table of Distances (27 CFR 55.218, Alcohol, Tobacco Products, and Firearms; Commerce in Explosives; Storage; Table of Distances for Storage of Explosive Material) or LAC 33:III.5912.A.1.a.ii] of the source may pose a danger to public emergency responders. Therefore, public emergency responders should not enter this area except as arranged with the contact person indicated on the registration or as authorized by R.S. 30:2376. The undersigned certifies that, to the best of my knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete."

[Signature]

iii. The owner or operator shall maintain for five years documentation of the determination of eligibility under Subsection A.1.a of this Section and a copy of the risk management plan under Subsection A.1.b.ii of this Section.

2. Sources That Exceed a Threshold Quantity for Toxic Regulated Substances.

a. Eligibility. The owner or operator of a major stationary source that exceeds the threshold quantity for a toxic substance shall comply with Subsection A.2.b of this Section if:

i. the major stationary source has not had a significant accidental release in the last five years;

ii. the major stationary source can demonstrate that the lookup table distance (or distance calculated by other methods listed in LAC 33:III.5913.E.2) for a worst-case release is less than the distance to a public or environmental receptor; and

iii. the emergency response plan under 42 U.S.C. 11003 (Emergency Planning and Community Right-to-Know Act; Subtitle A: Emergency Planning and Notification; Comprehensive Emergency Response Plans) addresses appropriate response to an accidental release at the source.

b. Program and Plan Requirements

i. The owner or operator of a major stationary source that meets the eligibility criteria of Subsection A.2.a of this Section shall submit the following as a risk management plan to the Department, the Louisiana Emergency Response Commission, and the LEPC with jurisdiction for the area where the source is located:

(a). a copy of the registration required by LAC 33:III.5911 (this copy may be dated before the certification required by LAC 33:III.5911.B.6); and

(b). the following statement:

"Based on the criteria in LAC 33:III.5912.A.2.a, the worst-case accidental release for the source described on the attached form (registration) presents no potential for public or environmental impact within [insert value calculated under Subsection A.2.a.ii of this Section] kilometers of the source, given the nature of the process and the chemicals stored at the

source. For the past five years, this source has not had a significant accidental release, as defined in LAC 33:III.5903. No additional measures are necessary to prevent public and environmental impacts from accidental releases. In the event of an accidental release of the regulated substance indicated on the registration, emergency response should be conducted according to the emergency response plan under 42 U.S.C. 11003 (Emergency Planning and Community Right-to-Know Act; Subtitle A: Emergency Planning and Notification; Comprehensive Emergency Response Plans), which is available at [location]. Therefore, public emergency responders should not enter this area except as provided under that plan or as authorized by R.S. 30:2376. The undersigned certifies that, to the best of my knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete."

[Signature].

ii. The owner or operator shall maintain for five years documentation of the determination of eligibility under Subsection A.2.a of this Section and a copy of the risk management plan under Subsection A.2.b.i of this Section.

B. Streamlined Risk Management Program (Tier 2)

1. The owner or operator of a major stationary source eligible for this Subsection shall comply with LAC 33:III.5913.

2. The owner or operator of a major stationary source shall establish a prevention program, which includes safety precautions and maintenance, monitoring, and employee training measures to be used at the source to prevent accidental releases. The prevention program shall identify other federal accident prevention requirements to which the source is subject, including national voluntary standards and measures required by section 112(r)(1) of the federal Clean Air Act.

3. The owner or operator of a major stationary source shall prepare an emergency response program, which documents specific actions to be taken in an emergency response to an accidental release, including:

a. procedures for informing the public and local entities about accidental releases;

b. procedures to be used on site to respond to an accidental release; and

c. a description of the employee training measures used to educate employees regarding emergency situations.

4. The owner or operator of a major stationary source shall submit a risk management plan summarizing Subsections B.1-3 of this Section to the Department, the Louisiana Emergency Response Commission, and the LEPC with jurisdiction for the area where the source is located. The owner or operator shall retain a copy of the risk management plan for five years.

C. Alternate Means of Compliance for Tier 3 Sources

1. A Tier 3 major stationary source may elect to satisfy the requirements of LAC 33:III.5915 and 5919-5935 by meeting the requirements of 29 CFR 1910.119 (Labor; Occupational Safety and Health Standards; Process Safety Management (PSM) of Highly Dangerous Materials). A Tier 3 major stationary source electing this option shall be exempt from the requirements of LAC 33:III.5915 and 5919-5935 if it meets all the requirements of 29 CFR 1910.119 and Subsection C.2 of this Section. The Department may then enforce and audit the requirements of 29 CFR 1910.119 used to satisfy the requirements of this Chapter. The exemptions

listed under 29 CFR 1910.119(a) shall not apply under this Subsection unless they are listed as exemptions elsewhere in this Chapter.

2. A Tier 3 major stationary source electing to comply with the provisions of this Subsection shall do a supplementary review of the Process Hazard Analysis (PHA) required by 29 CFR 1910.119(e) to determine any off-site consequences not addressed by the PHA. Both the potential hazards and the action items for the potential hazards in the PHA shall be reviewed for off-site consequences, using the same methodology as in the PHA. Any off-site consequences so determined shall then be dealt with as additional items under 29 CFR 1910.119. Also, a significant accidental release shall be investigated and reported in the same manner as an incident involving a catastrophic release under 29 CFR 1910.119.

3. A Tier 3 major stationary source electing to comply with the provisions of this Subsection shall do a hazard assessment according to LAC 33:III.5913, documentation of a management system according to LAC 33:III.5917, an emergency response program according to LAC 33:III.5937, and a risk management program according to LAC 33:III.5939 on the basis of the requirements of 29 CFR 1910.119 and the additions from the supplementary review under Subsection C.2. of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5913. Hazard Assessment

A. The purpose of the hazard assessment is to evaluate the impact of significant accidental releases on the public health and environment and to develop a history of such releases.

B. Hazard assessments shall be conducted for each regulated substance present at the stationary source above the threshold quantity. For each regulated substance the hazard assessment shall include the following steps:

1. determine a single worst-case release scenario for all flammables at the stationary source and a single worst-case release scenario for all explosives. Determine a single worst-case scenario for all toxic regulated substances for each process at the major stationary source; the worst-case scenario for each covered process must be substantiated for each toxic regulated substance. Report all worst-case scenarios, including the worst-case scenarios for toxics for every covered process at the major stationary source, in the risk management plan required under LAC 33:III.5939. Provide documentation substantiating all worst-case scenarios for all processes and all substances to the Department on request;

2. identify other more likely significant accidental releases for each process where the regulated substance is present above the threshold quantity, including processes where the substance is manufactured, processed, or used, and where the regulated substance is stored, loaded, or unloaded. Identify a single more likely release scenario for all flammables and a single more likely release scenario for all explosives, but a separate more likely release scenario for each toxic regulated substance at the major stationary source;

3. analyze the off-site consequences of the worst-case release scenarios and the other more likely significant accidental release scenarios identified in Subsection B.2 of this Section; and

4. develop a history of significant accidental releases of each regulated substance beginning five years before November 8, 1995.

C. To determine a worst-case release scenario, the owner or operator shall examine each process handling each regulated substance. The owner or operator shall assume that gaseous substances are released in 10 minutes. The owner or operator shall assume that liquid substances form a pool in 10 minutes, with the release rate to the air determined by volatilization, unless dispersion by explosion or other factors could be involved. The owner or operator shall at least examine the case of the release of the largest quantity of a regulated substance resulting from a vessel or process line failure for each process. The owner or operator shall assume that well-designed and well-maintained passive mitigation systems function but active mitigation systems fail.

D. The owner or operator shall determine other more likely significant accidental releases such as, but not limited to:

1. transfer hose failure, excess flow valve or emergency shutoff failure, and subsequent loss of piping and shipping container contents (truck or rail);

2. process piping failure and loss of contents from both directions from the break;

3. vents directly to the atmosphere from pressure relief devices; and

4. reactor or other process vessel failure where the contents are at temperatures and pressures above ambient conditions. In these situations well-designed and well-maintained active mitigation systems and well-designed and well-maintained passive mitigation systems are assumed to work to minimize the consequences of the release.

E. For each regulated substance, the off-site consequences of the worst-case or more likely significant accidental release scenarios shall be analyzed as follows:

1. the rate and quantity of substance lost to the air and the duration of the event;

2. the distances, in all directions, at which exposure to the substance or damage to off-site property or the environment from the release could occur using both worst-case meteorological conditions (i.e., F stability and 1.5 m/sec wind speed) and meteorological conditions most often occurring at the major stationary source. The owner or operator shall use the American Table of Distances (27 CFR 55.218, Alcohol, Tobacco Products, and Firearms; Commerce in Explosives; Storage; Table of Distances for Storage of Explosive Material) for explosives. For toxics and flammables the owner or operator may use lookup tables to be developed by EPA for this purpose, or the owner or operator also may use *Technical Guidance for Hazards Analysis - Emergency Planning for Extremely Hazardous Substances*, EPA/FEMA/DOT, December 1987. As an alternative to either of these, the owner or operator may use a dense-gas model approved by the Department;

3. the total population and the total sensitive population within these distances that could be exposed to the vapor cloud, pressure wave, or debris, depending on wind direction and meteorological conditions. The owner or operator may use U.S. Census Data to identify these populations, taking the number of children under age 18 and people over age 65 as a proxy for sensitive population;

4. a description of the environments within these distances, including consideration of sensitive ecosystems, migration routes, vulnerable natural areas, and critical habitats for threatened or endangered species. The owner or operator may use the National Oceanic and Atmospheric Administration document *Guidance for Facility and Vessel Response Plans: Fish and Wildlife and Sensitive Environments* (59 FR 14714, March 29, 1994), as guidance in considering what to describe in environments within these distances;

5. a general description of other major stationary sources, other industrial, commercial, military, and institutional facilities, or other types of facilities of which the owner or operator has reasonable knowledge within these distances that might become dangerous to the public in the event of a significant accidental release from the owner or operator's major stationary source; and

6. a general description of highways and roads, highway crossings, railways and rail yards, airports and air fields, and any other transportation facilities of which the owner or operator has reasonable knowledge that might be affected by a significant accidental release from the major stationary source.

F. The owner or operator shall prepare a five-year history, beginning five years before November 8, 1995, of significant accidental releases and releases with potential for off-site consequences for each regulated substance handled at the major stationary source. The history shall list the release date and time, substance and quantity released, the duration of the release, the concentration of the substance released, and any off-site consequences such as deaths, injuries, hospitalizations, medical treatments, evacuations, sheltering-in-place, and major off-site environmental impacts such as soil, groundwater, or drinking water contamination, fish kills, and vegetation damage.

G. The hazard assessment shall be reviewed and updated at least once every five years. If changes in process, management, or any other relevant aspect of the major stationary source or its surroundings (e.g., new housing developments or improved emergency response services) might reasonably be expected to make the results of the hazard assessment inaccurate (i.e., if either the worst-case release scenario or the estimate of off-site effects might reasonably be expected to change), the owner or operator shall complete a new or revised hazard assessment within 60 days of such change.

H. The owner or operator shall maintain the following records documenting the hazard assessment and analysis of off-site consequences:

1. a description of the worst-case scenarios, assumptions used, analyses or worksheets used to derive the

accident scenarios, and the rationale for selection of specific scenarios;

2. a description of the other more likely significant accidental release scenarios identified in Subsection B.2 of this Section, assumptions used, analyses or worksheets used to derive the accident scenarios, and the rationale for selection of specific scenarios; and

3. documentation for how the off-site consequences for each scenario were determined including:

a. estimated quantity of substance released, rate of release, and duration of the release;

b. meteorological data used for typical conditions at the major stationary source;

c. for toxic substances, the concentration used to determine the level of exposure and the data used for that concentration;

d. calculations for determination of the distances downwind to the acute toxicity concentration; and

e. data used for estimation of the populations exposed, environments, and affected industrial and transportation facilities identified.

I. A summary of the information required under Subsection H of this Section and a table showing the data for the five-year accident history under Subsection F of this Section shall be included in the Risk Management Plan (RMP) required under LAC 33:III.5939.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5919. Prevention Program - Process Hazard Analysis

A. The purpose of the process hazard analysis (hazard evaluation) is to examine, in a systematic, step-by-step way, the equipment, systems, and procedures for handling regulated substances and to identify the mishaps that could occur, analyze the likelihood that mishaps will occur, evaluate the consequences of these mishaps, and analyze the likelihood that safety systems, mitigation systems, and emergency alarms will function properly to eliminate or reduce the consequences of a mishap. A thorough process hazard analysis is the foundation for the remaining elements of the prevention program.

B. The owner or operator shall perform an initial process hazard analysis on processes covered by this Chapter. The process hazard analysis shall be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards involved in the process. The owner or operator shall determine and document the priority order for conducting process hazard analyses based on a rationale that includes such considerations as the extent of process hazards, off-site consequences, age of the process, and operating history of the process. The process hazard analysis shall be completed no later than November 8, 1998.

C. Process hazard analyses completed after November 8, 1990 that meet the requirements of this Section are acceptable as initial process hazard analyses. These process hazard analyses shall be updated and revalidated, based on their completion date, in accordance with Subsection H of this Section.

D. The owner or operator shall use one or more of the following methodologies that are appropriate to determine and evaluate the hazards of the process being analyzed:

1. what-if;
2. checklist;
3. what-if/checklist;
4. hazard and operability study (HAZOP);
5. failure mode and effects analysis (FMEA);
6. fault tree analysis; or
7. an appropriate equivalent methodology.

E. The process hazard analysis shall address the following:

1. the hazards of the process;
2. the identification of any previous incident that had a likely potential for significant off-site consequences;
3. engineering and administrative controls applicable to the hazards and their interrelationships, such as appropriate application of detection methodologies to provide early warning of releases. Acceptable detection methods might include process monitoring and control instrumentation with alarms and detection hardware such as hydrocarbon sensors;
4. consequences of failure of engineering and administrative controls;
5. major stationary source siting;
6. human factors; and
7. a qualitative evaluation of a range of possible safety and health effects of failure of the controls on public health and the environment.

F. The process hazard analysis shall be performed by a team with expertise in engineering and process operations, and the team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.

G. The owner or operator shall establish a system to promptly address the team's findings and recommendations; ensure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; and communicate the action to operating, maintenance, and other employees whose work assignments are in the process and who are affected by the recommendations or actions.

H. At least every five years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting the requirements in Subsection F of this Section to ensure that the process hazard analysis is consistent with the current process.

I. The owner or operator shall retain process hazard analyses and updates or revalidations for each process covered by this Chapter, as well as the documented resolution of recommendations described in Subsection G of this Section, for the life of the process.

J. Based on the findings and recommendations of the process hazard analysis, the owner or operator shall also investigate, evaluate, and document a plan for, or rationale for not, installing (if not already in place) the following:

1. monitors, detectors, sensors, or alarms for early detection of accidental releases;

2. secondary containment or control devices such as, but not limited to, flares, scrubbers, quench, surge, or dump tanks, to capture releases; and

3. mitigation systems to reduce the downwind consequences of the release.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5931. Prevention Program - Management of Change

A. The purpose of a management of change program is to ensure that any alteration of equipment, procedures, substances, or processes is thoroughly analyzed to identify hazards, the consequences of failures, and impacts of the change on existing equipment, procedures, substances, and processes prior to implementation of the change.

B. For process equipment, devices, or controls, replacement is not a change if the design, materials of construction, and parameters for flow, pressure, and temperature satisfy the design specifications of the device replaced.

C. The owner or operator shall establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures and changes to major stationary sources that affect a covered process.

D. The procedures shall ensure that the following considerations are addressed prior to any change:

1. the technical basis for the proposed change;
2. impact of change on likelihood of a significant accidental release;
3. modifications to operating procedures;
4. necessary time period for the change; and
5. authorization requirements for the proposed change.

E. Employees involved in operating a process and maintenance and contract employees whose job tasks will be directly affected by a change in the process shall be informed of and trained in the change prior to the start-up of the process or affected part of the process.

F. If a change covered by this Section results in a change in the process safety information required by LAC 33:III.5921, such information shall be updated accordingly.

G. If a change covered by this Section results in a change in the operating procedures or practices required by LAC 33:III.5923, such procedures or practices shall be updated accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5939. Risk Management Plan (RMP)

A. The owner or operator of a major stationary source covered by this Chapter shall submit a risk management plan (report) summarizing the key elements of its risk management program to the Department and shall submit copies to the Louisiana Emergency Response Commission and the Local

Emergency Planning Committee with jurisdiction for the area where the source is located. The owner or operator shall submit to the LEPC having jurisdiction selected portions of the risk management plan in printed and/or electronic form useful to the LEPC for purposes of emergency response. Each report submitted by the major stationary source shall address all regulated substances present at the major stationary source in quantities above the threshold quantity.

B. The report shall include a copy of the registration form with updated information to ensure that the registration information is accurate.

C. The report shall include, for each regulated substance, a summary of the hazard assessment and analysis of off-site consequences and accident history data required by LAC 33:III.5913.I.

D. The report shall include, for the major stationary source, a description of the major hazards (e.g., equipment failure, human error, natural phenomena, or other factors or a combination of such factors, which could lead to a significant accidental release) identified through the process hazard analyses, a description of the consequences of a failure to control for each identified major hazard, a summary of all actions taken or planned to address these hazards, and how significant accidental releases are prevented or mitigated or the consequences reduced by these actions. The purpose of the summary is to identify major hazards and provide an overview of the prevention program being implemented by the major stationary source to prevent significant accidental releases. For each action taken to address a hazard the report shall include the date on which the action was started (or is scheduled to start) and the actual or scheduled completion date. Where the same actions (e.g., training, certain controls, preventive maintenance programs, improved emergency response plan) address a number of hazards, the description may be organized by actions rather than hazards. If any requirement for the risk management program specified in this Section is not covered in the summary of actions taken to address hazards, the report shall include a brief description of the major stationary source's implementation of the requirement.

E. The report shall include a summary of the major stationary source's emergency response plan. The summary shall include:

1. the procedures adopted to inform emergency response authorities and the public;
2. the name or position of the point of contact between the major stationary source and the public authorities;
3. the dates of drills and exercises completed and planned and the results of completed drills; and
4. a description of coordination with the local emergency planning committee.

F. The report shall include a description of the management system developed to implement and coordinate the elements of the hazard assessment, prevention program, and emergency response program at the major stationary source. The description shall define the person or position at the major stationary source that is responsible for the overall implementation and coordination of the risk management program requirements. Where regulated substances are

present above their threshold quantities at several locations at the major stationary source or where responsibility for implementing individual requirements is delegated to separate groups at the major stationary source, an organization chart shall be included to describe the lines of responsibility.

G. The report shall include a certification by the owner or operator that, to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete.

H. The report shall be reviewed and updated at least every five years and resubmitted to the Department and copies shall be submitted to the Louisiana Emergency Response Commission and the LEPC. The owner or operator shall submit to the LEPC having jurisdiction selected portions of the updated risk management plan in printed and/or electronic form useful to the LEPC for purposes of emergency response. If a change such as the introduction of a new regulated substance or process occurs that requires a revised or updated hazard assessment or process hazard analysis, then the report shall be updated and resubmitted within six months of the introduction of the new process or substance.

I. The report shall be available to the public under section 114(c) of the federal Clean Air Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5941. Recordkeeping Requirements

A. The owner or operator of a major stationary source covered by this Section shall develop and maintain at the major stationary source, for five years, records supporting the implementation of the risk management program and the development of the risk management plan.

B. For the process hazard analysis, safety audit, and accident investigation, the records required to be maintained under Subsection A of this Section shall include management's response to each recommendation that is required to be made, addressed, and documented under LAC 33:III.5919.G, 5933.E, and 5935.F and G. For implemented recommendations and recommendations to be implemented, the documentation shall include the date (or scheduled date) for starting implementation and the date (or scheduled date) for completion of the implementation. For each recommendation not implemented, the documentation shall include an explanation of the decision.

C. For pre-start-up reviews and management of change, the documentation shall include the findings of the review and any additional steps (including a description of the steps and the reasons they were implemented) that were taken prior to implementation of the start-up or change.

D. The owner or operator shall maintain copies of all standard operating, maintenance, management of change, emergency response, and accident investigation procedures required under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5943. Audits

A. In addition to inspections for the purpose of regulatory development and enforcement of this Chapter, the Department shall periodically audit RMPs registered under LAC 33:III.5939 in order to review the adequacy of such RMPs and require revisions of RMPs when necessary to ensure compliance with LAC 33:III.5939.

B. Major stationary sources shall be selected for audits based on any of the following criteria:

1. accident history of the major stationary source;
2. accident history of other major stationary sources in the same industry;
3. quantity of regulated substances present at the major stationary source;
4. location of the major stationary source and its proximity to the public and sensitive environments;
5. the presence of specific regulated substances;
6. the hazards identified in the RMP; or
7. a plan providing for neutral, random oversight.

C. The department shall have access to the major stationary source, supporting documentation, and any area where an accidental release could occur.

D. Based on the audit, the Department may issue an owner or operator of a major stationary source a written preliminary determination of necessary revisions to the source's RMP in order to ensure that the RMP meets the criteria of LAC 33:III.5939 and reflects the purposes of this Chapter. This preliminary determination shall include an explanation for the basis for the revisions, reflecting industry standards and guidelines (such as AIChE (American Institute of Chemical Engineers)/CCPS (Center for Chemical Process Safety) guidelines and ASME (American Society of Mechanical Engineers) and API (American Petroleum Institute) standards) to the extent that such standards and guidelines are applicable, and shall include a timetable for their implementation.

E. Written Response to a Preliminary Determination

1. The owner or operator shall respond in writing to a preliminary determination made in accordance with Subsection D of this Section. The response shall state that the owner or operator shall implement the revisions contained in the preliminary determination in accordance with the timetable included in the preliminary determination or shall state that the owner rejects the revisions in whole or in part. For each rejected revision the owner or operator shall explain the basis for rejecting such revision. Such explanation may include substitute revisions.

2. The written response under Subsection E.1 of this Section shall be received by the Department within 90 days of the issuance of the preliminary determination or a shorter period of time as the Department specifies in the preliminary determination as necessary to protect human health and the environment. Prior to the written response being due and upon written request from the owner or operator, the Department may provide in writing additional time for the response to be received.

F. After providing the owner or operator an opportunity to respond under Subsection E of this Section, the Department may issue the owner or operator a written final determination of necessary revisions to the source's RMP. The final

determination may adopt or modify the revisions contained in the preliminary determination under Subsection D of this Section or may adopt the substitute revisions provided in the response under Subsection E of this Section. A final determination that adopts a revision rejected by the owner or operator shall include an explanation of the basis for the revision. A final determination that fails to adopt a substitute revision provided under Subsection E of this Section shall include an explanation of the basis for finding such substitute revision unreasonable.

G. Thirty days after the issuance of a final determination under Subsection F of this Section, the owner or operator shall be in violation of LAC 33:III.5911, 5939.A, and this Section unless the owner or operator revises the RMP prepared under LAC 33:III.5939 as required by the final determination, submits copies of the revised RMP to the entities identified in LAC 33:III.5939.A, and registers the revised plan as provided in LAC 33:III.5911.B and C.

H. The public shall have access to the preliminary determinations, responses, and final determinations under this Section.

I. Nothing in this Section shall preclude, limit, or interfere in any way with the authority of EPA or the state to exercise its enforcement, investigatory, and information gathering authorities concerning 40 CFR part 68 under the federal Clean Air Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

For more information concerning AQ126E3, contact DEQ's Investigations and Regulation Development Division at (504) 765-0399.

J. Dale Givens
Assistant Secretary

9611#001

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of Solid and Hazardous Waste
Solid Waste Division

Waste Tire Remediation Agreements
(LAC 33:VII.10536)(SW023E)

In accordance with the emergency 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 in order to facilitate the clean-up of promiscuous/unauthorized tire piles in parishes where the local government has not actively pursued any agreements with the Department.

Waste tires that are not processed in accordance with LAC 33:VII.Chapter 105 create environmental and health-related problems and pose a significant threat to the safety of the

community should a fire occur. The elimination of breeding areas for mosquitoes caused by waste tire piles will reduce the exposure to these insects and the serious health problems associated therewith.

The DEQ will propose a Rule which reflects the provisions of this Emergency Rule. This Emergency Rule is effective on October 18, 1996, 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 SW023E, contact DEQ's Investigations and Regulations Development Division at (504) 765-0399.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 2. Recycling

Chapter 105. Waste Tires

§10536. Cleanup of Promiscuous and/or Unauthorized Tire Piles

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[See Prior Text in A-G]

H. The Department may enter into agreements with processors holding either a standard waste tire processing permit or a mobile processor authorization certificate for the remediation of promiscuous/unauthorized waste tire sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 23:

J. Dale Givens
Secretary

9611#004

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration State Land Office

Wax Lake 1996-1997 Waterfowl Hunting Season

The Division of Administration, State Land Office, has adopted the following Emergency Rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., which Emergency Rule will be effective November 1, 1996 and remain in effect for 120 days or until finalized as a Rule, whichever occurs first.

Emergency adoption is necessary because of a dispute between the State of Louisiana and Miami Corporation over the ownership of water bottoms and accretion areas generally between the North end of Wax Lake and the mouth of Little Wax Bayou. Miami Corporation has previously granted hunting leases to various parties in this area; and the state has recently posted signs in this area evidencing the state's claims, leading some members of the public to assume that the area was open to unlimited hunting and other access, including the right to construct permanent hunting blinds in the area. Sheriff David Naquin of St. Mary Parish has expressed concern over

problems of enforcement of trespass laws in that portion of the Wax Lake area claimed by Miami Corporation and the state, particularly during the upcoming duck hunting season. Both Miami Corporation and the state are united in their efforts to avoid any confrontation among armed hunters in this area, and deem it advisable to create a uniform set of rules for use of the area during the opening hunting season.

Emergency Rule

Effective November 1, 1996 and thereafter, the State Land Office adopts the following rules to govern use of the area of Wax Lake claimed by the state (which will be marked on the ground by State Land signs on perimeter trees) for hunting during the duration of the 1996-1997 waterfowl hunting season:

1. For purposes of these regulations, "Wax Lake Area" shall include lands and water bottoms within Sections 34, 35, 44 and 45, Township 16 South, Range 10 East, St. Mary Parish, said area generally lying between the north limit of Wax Lake and the mouth of Little Wax Bayou. The lands and water bottoms within the Wax Lake Area are subject to competing claims of the state and private landowners.

2. No one shall use marsh buggies within the Wax Lake Area. Air boats shall be allowed within the channel of Wax Lake Outlet only.

3. Certain improvements have been placed on the area by parties claiming through private landowners. Pending resolution of the title disputes between the state and those landowners, those improvements may remain in place, and any new permanent improvements shall be spaced a minimum of 500 feet from any existing or newly constructed improvements. All blinds, stands, or other improvements placed on the lands or water bottoms for use in hunting shall be removed upon termination of the legal hunting seasons. Other than such temporary hunting blinds as may be constructed for personal use, no party shall construct any buildings, levees, dams, fences, or other structures or facilities on the lands or water bottoms within the Wax Lake Area, nor dredge or dig any additional canals, ditches, or ponds thereon or otherwise change or alter the premises in any manner.

4. No member of the public is allowed to "stake a claim" to any particular location within areas owned or claimed by the State of Louisiana for any purpose. Construction of permanent blinds shall not give such party any right to exclude others.

Mark C. Drennen
Commissioner

9611#054

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Sanitary Code—Molluscan Shell Stock (Chapter IX)

The Department of Health and Hospitals, Office of Public Health, has adopted the following Emergency Rule in the Seafood Sanitation Program. This Emergency Rule amends

Chapter IX of the State Sanitary Code, Section 9:052-3, Paragraph (C). This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The effective date is November 5, 1996, and shall be in effect for the maximum period allowed under the Administrative Procedure Act, or until adoption of the Rule, whichever occurs first. This Emergency Rule is necessary in order to prevent severe economic hardship and consequence to the oyster canning industry in the state of Louisiana. Language is being added to this Section that exempts, under certain conditions, the requirement that trucks utilized for hauling shell stock oysters to a steam factory for thermal processing and canning be refrigerated. The refrigeration requirements that were previously adopted were intended by this agency to apply only to shellfish offered for sale in the fresh and frozen market place.

Section 9:052-3, paragraph C is hereby amended as follows:

Emergency Rule

9:052-3. General Provisions

* * *

C. Except for deliveries made to a shellfish dealer certified by the Office of Public Health for inclusion on the U.S. Food and Drug Administration's Interstate Certified Shellfish Shippers List and located less than 30 minutes from dockside, all land based deliveries of shell stock shall be made aboard mechanically refrigerated trucks with an internal air temperature of 45° F or less as measured 12 inches from the blower. For shipments by air, an internal meat temperature of 45° F or less shall be maintained at all times. To accomplish this it shall be necessary to pre-chill shell stock to an internal temperature of 40° F or less prior to being packed into insulated containers with frozen gel packs. Land based deliveries of molluscan shell stock to a steam factory for thermal processing and canning shall be exempt from these refrigeration requirements during the months of November through May provided that the shellfish are delivered to the cannery in accordance with the requirements cited in Paragraph (A) of this Section and the Department of Wildlife and Fisheries, Enforcement Division is notified via their toll free telephone number (1-800-442-2511) prior to making each delivery.

* * *

Bobby P. Jindal
Secretary

9611#066

DECLARATION OF EMERGENCY

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

Outpatient Hospital Laboratory 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 1996-97 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 remain in effect for the maximum period allowed or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses hospitals for outpatient laboratory services. The Bureau has differentiated in the reimbursement rate for outpatient hospital laboratory services from laboratory services performed in a nonhospital setting. Effective July 7, 1995 the Bureau reduced the reimbursement for laboratory services except for those services performed in an outpatient hospital setting (*Louisiana Register*, Volume 21 Number 7, page 649). The Bureau adopted an Emergency Rule effective August 1, 1996 which reduced the reimbursement for outpatient hospital laboratory services subject to the Medicare fee schedule in order to achieve a uniform reimbursement methodology for all laboratory services subject to the Medicare fee schedule regardless of the setting in which the services are performed (*Louisiana Register*, Volume 22, Number 7, page 573). The following Emergency Rule is necessary to maintain the cost savings initiated by August 1, 1996 Emergency Rulemaking and thereby avoid a budget deficit in the Medical Assistance Program. It is estimated that continuation of this Emergency Rule will reduce expenditures by approximately \$681,506 for state fiscal year 1997.

Emergency Rule

Effective November 20, 1996, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses hospitals for outpatient laboratory services as described below:

A uniform reimbursement methodology for all laboratory services subject to the Medicare fee schedule is established regardless of the setting in which the services are performed. The reimbursement rate for outpatient hospital laboratory services subject to the Medicare fee schedule are reimbursed at the same reimbursement rate for laboratory services provided in a nonhospital setting.

Bobby P. Jindal
Secretary

9611#064

DECLARATION OF EMERGENCY

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

Pharmacy Program—Prescription Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is adopting 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 1996-97 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 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 administers the Pharmacy Program under the Medicaid Program in accordance with federal and state regulations which govern the dispensing of prescription drugs. Although federal regulations permit states to establish recipient service limits with a provision for exemption of certain recipient groups, the Bureau has not established any service limits on the number of prescriptions allowed to Medicaid recipients. Federal and state regulations mandate that institutionalized recipients must be provided with pharmaceutical services to meet their needs. Also federal regulations permit the establishment of service limitations for children under 21 years of age if there is a provision to override the service limit when the physician certifies in writing that the additional service is medically necessary. The General Appropriations Act of 1996-1997 mandates that the Department promulgate rules to assure that Medicaid beneficiaries requiring more than five prescriptions per month will be able to receive such prescriptions upon receipt of authorization of the Department and physician's orders that a medical necessity exists. In compliance with the General Appropriations Act and as permitted by federal regulations, the Department is adopting the following Emergency Rule to provide for five prescriptions per month for Medicaid recipients with the following exemptions:

1. persons under 21 years of age;
2. persons who are residents of Medicaid-enrolled long term care institutions, including residents of group and community homes;
3. Home and Community Based Services Program participants; and
4. pregnant women.

This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that

implementation of the following Emergency Rule will reduce expenditures by approximately \$4,463,545 for the remainder of state fiscal year 1997 and \$8,927,090 for state fiscal year 1998.

Emergency Rule

Effective for dates of service January 1, 1997 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following regulations governing the provision of pharmaceutical services to Medicaid recipients under the Pharmacy Program:

1. Recipients are eligible to receive five prescriptions per month.
2. The following recipients are exempt from the five prescription monthly service limitation:
 - a. persons under 21 years of age;
 - b. persons who are residents of Medicaid-enrolled long-term care institutions, including residents of group and community homes;
 - c. persons participating in the Home and Community Based Services Programs and;
 - d. pregnant women.
3. Recipients shall be able to receive more than five prescriptions per month based upon the prescribing practitioner's written statement that the prescription:
 - a. is in excess of the monthly service limit of five prescriptions;
 - b. is medically necessary due to the medical condition(s) of the recipient; and
 - c. specifies the medical condition(s).

Acceptable written statements must be either a hand-written or pre-printed statement signed by the prescribing practitioner. The statement may be faxed to the pharmacist by the prescribing practitioner.

4. Printed statements without the prescribing practitioner's signature, check-off boxes or stamped signatures are not acceptable statements.

5. An acceptable written statement is required for each prescription in excess of five for that month.

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

Bobby P. Jindal
Secretary

9611#057

DECLARATION OF EMERGENCY

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

Reimbursement for Rehabilitation 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. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B), and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Medicaid Program provides coverage and reimbursement for rehabilitative services provided in rehabilitation clinics and in hospital settings as an outpatient service. Rehabilitation clinics are defined as facilities that are not part of a hospital, but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies. Outpatient hospital rehabilitation services are reimbursed at an interim rate of 60 percent of billed charges with final reimbursement adjusted to 83 percent of allowable costs through the cost settlement process. Rehabilitation clinics are paid at 90 percent of the established payment schedule which was in effect as of July 6, 1995. The Department has determined that it is necessary to revise the reimbursement methodology for rehabilitation services in the following manner. The payment schedule for rehabilitation clinics will be based on the hourly rates of \$40 per hour for physical therapy, \$32 per hour for occupational therapy, and \$30 per hour for speech/hearing therapy. Reimbursement for outpatient hospital rehabilitation services will be at 110 percent of the rate established for rehabilitation clinics. Rehabilitation clinics will be reimbursed for evaluations at the rate which was in effect for those services as of July 6, 1995. Outpatient hospitals will be reimbursed for evaluations at 110 percent of the rate paid to rehabilitation clinics for that service. Outpatient hospital rehabilitation services shall no longer be included in the cost report for settlement. The following Emergency Rule is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this Emergency Rule will reduce expenditures by approximately \$1,207,155 for state fiscal year 1997.

Emergency Rule

Effective for dates of service on November 15, 1996 and thereafter, the Department of Health and Hospitals, Bureau of Health Services Financing shall reimburse rehabilitative services as follows:

1. the payment schedule for rehabilitation clinics shall be based on the hourly rates of \$40 per hour for physical therapy, \$32 per hour for occupational therapy, and \$30 per hour for speech therapy;
2. outpatient hospital rehabilitation services shall be reimbursed at 110 percent of the rates paid to rehabilitation clinics;
3. rehabilitation clinics shall be reimbursed for evaluations at the rate which was in effect for those services as of July 6, 1995; and
4. outpatient hospitals shall be reimbursed for evaluations at 110 percent of the rate paid to rehabilitation clinics for that service.

Outpatient hospital rehabilitation services shall no longer be included in the cost report for settlement. Hospitals shall now

be required to use the same state-assigned HCPCS procedure codes used by rehabilitation clinics in addition to the applicable hospital revenue code when submitting a claim for rehabilitation services.

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.

Bobby P. Jindal
Secretary

9611#055

DECLARATION OF EMERGENCY

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

Targeted Case Management Services and Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is 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 or until adoption of the final Rule, whichever occurs first.

The Bureau of Health Services Financing currently funds case management services to the following specific population groups:

1. 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. participants in Home- and Community-Based Services Waiver Program who receive case management as a separate service.

The following groups have previously received case management services: seriously mentally ill, MR/DD persons who were not participants of the MR/DD Waiver Program; and ventilator-assisted children.

Previously, these services have been implemented and governed under specific program regulations. The Department seeks to enhance all these services to the optimal level while streamlining their administration and establishes enhanced regulations governing consumer eligibility, provider enrollment, provider standards for participation and reimbursement methodology and requirements, 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; April 20, 1995, Volume 21, Number 4; August 20, 1995, Volume 21, Number 8; November 20, 1995, Volume 21, Number 11; March 20, 1996, Volume 22, Number 3; and July 20, 1996 Volume 22 Number 7). In addition, the Bureau adopted emergency rulemaking to revise the reimbursement methodology based on the 15-minute unit of service for the on-going services component to adoption of the flat rate. This revised reimbursement methodology was implemented effective October 1, 1995 (*Louisiana Register* Volume 21, Number 10) which included a monthly reimbursement rate for both components of case management services; the initial assessment/service plan development and the ongoing services. Monthly reimbursement rates were assigned for each population group based upon minimum standards for service delivery for each of these groups. Effective March 1, 1996, the Department adopted an Emergency Rule (*Louisiana Register*, Volume 22, Number 3) which provided for the payment of a one-hour minimum of service delivery and additional 15-minute incremental units up to a cap of the monthly rate once the initial one-hour service minimum is met. The June 11, 1996 Emergency Rule (*Louisiana Register*, Volume 22, Number 6) continued the flat rate methodology and the subsequent modification of this methodology as cited above. These provisions were continued with the adoption of the October 9, 1996 Emergency Rule (*Louisiana Register*, Volume 22, Number 10) which also continued the program reductions implemented this state fiscal year (*Louisiana Register*, Volume 22, Number 6, pages 556 and 574). In addition, the Department also adopted emergency rulemaking effective September 24, 1996 (*Louisiana Register*, Volume 22, Number 9) limiting case management services to infants and toddlers who either receive services under the MR/DD waiver or who receive two or more specified Medicaid services. The following Emergency Rule is being adopted to continue these provisions in force in order to assure that the fragile and vulnerable population groups identified above receive case management services essential to their obtaining needed medical services thereby preventing imminent peril to the health, safety, and welfare.

Emergency Rule

Effective for dates of service November 4, 1996 the Department of Health and Hospitals, Office of the Secretary Bureau of Health Services Financing adopts the following provisions to govern case management services including consumer eligibility requirements, provider enrollment, provider standards for participation and reimbursement methodology and general provisions. These provisions apply to case management services provided either to targeted population groups or to waiver participants who receive case management services as a separate service. These include the following groups of individuals:

1. infants and toddlers with special needs;
2. high-risk pregnant women;

3. persons infected with HIV;
4. persons in Waiver Program(s) who receive case management as a separate service.

All case management providers must follow the policies and procedures included in this notice 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.

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. 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 the 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 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 listed in 1-16 below to participate as a case management provider in the Medicaid Program, regardless of the targeted or waiver group served:

1. have 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. have established linkages with the resources available in the consumer's community;
 - b. maintain 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. demonstrate knowledge of the eligibility requirements and application procedures of federal, state, and local government assistance programs which are applicable to consumers served;
 - d. employ 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 this document;
2. possess a current license to provide case management/service coordination in Louisiana or written proof of application for licensure;
3. demonstrate 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 Certified Public Accountant 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 define the target population or waiver group to be served;
4. assure 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. assure 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. have a written plan to determine the effectiveness of the program and agrees to implement a continuous quality improvement plan approved by the Department;
7. document and maintain an individual record on each consumer which includes all of the elements described in licensing standards for case management and in this document;
8. agree to safeguard the confidentiality of the consumer's records in accordance with federal and state laws and regulations governing confidentiality;
9. assure a consumer's right to elect to receive case management as an optional service and the consumer's right to terminate such services;
10. assure 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, assure that the agency and case managers will not provide case management and Medicaid reimbursed direct services to the same consumer(s);
12. have 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. maintain a written policy for intake screening, including referral criteria;
14. maintain a written policy for transition and closure;
15. with the consumer's permission, agree 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 comply with the *Code of Governmental Ethics*. Applicants must meet the following additional enrollment requirements for specific target groups:
 17. demonstrate the capacity to participate and agree to participate in the Case Management Information System (CAMIS) and provide up-to-date data to the Regional Office and/or Program Office on a weekly basis via electronic mail applicable to infants and toddlers with special needs. CAMIS and electronic mail software will be provided without charge to the provider;
 18. have demonstrated successful experience with delivery and/or coordination of services for pregnant women; have a working relationship with a local obstetrical provider/acute care hospital providing deliveries for 24-hour medical consultation; have a multidisciplinary team consisting, at a minimum, of: a physician; primary nurse associate or Certified Nurse Manager; registered nurse; social worker; and nutritionist. All team members must meet DHH licensure and perinatal experience requirements (applicable to high-risk pregnant women only);

19. satisfactorily complete a one-day training as approved by the Department of Health and Hospitals HIV Program Office.

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 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.

The above general minimum qualifications for case managers are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in the human-service-related field may be substituted for the year of required paid experience.

d. additional qualifications are required for service provision to High-Risk Pregnant Women:

1. 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; or

2. 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

3. 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

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

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 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;

The above general minimum qualifications for case management supervisors are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in the human-service-related field may be substituted for one year of required paid experience. Additional qualifications for specific targeted or waiver groups are delineated below.

e. Each Medicaid-enrolled provider must ensure that all case management supervisory staff for high-risk pregnant women meet the following qualifications:

1. 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;

2. 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

3. 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; demonstrated knowledge about perinatal care; or

4. 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.

a. **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. 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. Other topics covered by the orientation must include, at a minimum:

1. provider policies and procedures;
2. Medicaid/Program Office policies and procedures;
3. confidentiality;
4. documentation in case records;
5. consumer rights protection and reporting of violations;
6. consumer abuse and neglect policies and procedures;
7. professional ethics;
8. emergency and safety procedures;
9. data management and record keeping;
10. infection control and universal precautions;

b. 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:

1. assessment techniques;
2. service planning;
3. resource identification;
4. interviewing and interpersonal skills;
5. data management and record keeping;
6. communication skills.

c. 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 Department of Health and Hospitals Case Management Provider Manual contains a list of suggested additional training topics.

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

1. professional identification/ethics;
2. process for interviewing, screening, and hiring of staff;
3. orientation/in-service training of staff;
4. evaluating staff;
5. approaches to supervision;
6. managing caseload size;
7. conflict resolution;
8. documentation;
9. 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.

d. Training. Infants and Toddlers with Special Needs

1. 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. 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.

2. 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.

e. 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 when provided.

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:

1. direct review, assessment, problem solving, and feedback regarding the delivery of case management services;
2. teaching and monitoring of the application of consumer centered principles and practices;
3. assuring quality delivery of services;
4. managing assignment of caseloads; and
5. arranging for training as appropriate.

The case manager supervisor must assess staff performance, review individual cases, provide feedback and help staff develop problem solving skills using two or more of the following methods:

1. individual, face-to-face sessions with staff;
2. group face-to-face sessions with all case management staff; or
3. sessions in which the supervisor accompanies a case manager to meet with consumers.

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

1. date and content of the supervisory sessions; and
2. 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.

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

GROUP	CASES
MR/DD Waiver	4.5
Infants and toddlers with special needs	35
High-risk pregnant women	60
HIV infected	45
Fragile elderly	40

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 MR/DD waiver participants in addition to those who are infants and toddlers with special needs, the maximum caseload is 35. For other "mixed" caseloads, the number of cases must be 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 Multidisciplinary 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. The infant/toddler must meet the following criteria:

a. be either a participant in the MR/DD Waiver or receive two or more of the following Medicaid services:

1. assistive technology services and devices;
2. audiology services;
3. health services;
4. medical services provided by a licensed physician to determine a child's developmental status and the need for early intervention services;
5. home health services;
6. occupational therapy services;
7. physical therapy services;
8. psychological services;
9. speech and language pathology;
10. vision services.

b. have a medical condition established and documented by a licensed medical doctor. In the case of a

hearing impairment, a licensed audiologist or licensed medical doctor must make the determination; or

c. be developmentally delayed 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. 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 by DHH;

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

3. HIV Infected Persons

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 be unable to access the necessary services.

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

5. MR/DD Waiver. The consumer must be participant in the MR/DD 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 consist of intake,

assessment, service planning, linkage/service coordination, monitoring/follow-up, re-assessment, 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 include 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.

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.

2. *Intake for Infants and Toddlers with Special Needs* is defined as a comprehensive interagency multidisciplinary,

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.

3. **Intake for High-Risk Pregnant Women** must include 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 by DHH;

4. **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:

1. identifying information;
2. medical/physical;
3. psychosocial/behavioral;
4. developmental/intellectual;
5. socialization/recreational;
6. financial;
7. educational/vocational;
8. family functioning;
9. personal and community support systems;
10. housing/physical environment; and
11. 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.

5. Assessment for Infants and Toddlers with Special Needs. The child search coordinator is responsible for ensuring all the components of the assessment/multidisciplinary 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 multidisciplinary 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;
- e. the MDE must include the following:

1. a review of pertinent records related to the child's current health status and medical history;

2. results of a KIDMED screening or documented referral for KIDMED screening;

3. 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;

4. an assessment of the child's strengths and needs and the identification of appropriate early intervention services to meet those needs; and

5. with family consent, the family's identification of their concerns, priorities and resources related to enhancing the development of their child;

6. be signed and dated by multidisciplinary team participants.

6. *Assessment for High-Risk Pregnant Women*—a multidisciplinary 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.

1. Each professional assessment must reflect the identified areas for counseling, intervention and follow up services.

2. The nursing, nutritional, and psychosocial assessments must be documented on standardized forms approved by the Department.

3. 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.

4. The case manager is responsible for assisting the family through the multidisciplinary evaluation process including the following:

- a. coordinating the performance of identified or necessary evaluations to ensure timely completion in preparation for the multidisciplinary team staffing;

- b. identifying or coordinating the identification of the consumer's concerns, priorities and resources.

5. 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.

7. Case Management Service Planning. *Service Planning* is defined as the development of a written agreement based upon assessment data (which may be multidisciplinary), 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.

- a. 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.

b. The service plan must be completed within 45 calendar days of the referral for case management services.

1. The consumer must be informed of his or her right to refuse a service plan after carefully reviewing it.

2. The service plan must be signed and dated by the consumer and the case manager.

c. Although service plans may have different formats, all plans must incorporate all of the following required components:

1. statement of prioritized long-range goals (problems or needs) which have been identified in the assessment;

2. one or more short-term objectives or expected outcomes linked to each goal that is to be addressed in order of priority;

3. specification of action steps, services or interventions planned, and payment mechanism, if applicable;

4. assignment of individual responsibility for goal accomplishment; and

5. time frames for completion or review.

d. 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 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.

e. 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;

1. convening a meeting to develop the IFSP within 45 calendar days of referral;

2. attending the IFSP meeting;

3. 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.

8. 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.

9. *Case Management Follow-Up/Monitoring*—defined as the follow-up mechanism to assure applicability of the service plan.

a. 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.

b. 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.

c. 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.

d. 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.

e. 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 (e.g., telephone, home visit) and the individuals contacted is determined by the status and needs of the consumer, as identified in the service plan and determined by the case manager.

Through follow-up/monitoring 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.

f. Monitoring of services provided includes the following:

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

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

3. 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.

g. 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.

10. 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.

a. 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 must be re-evaluated on a routine basis or when a significant change in status or needs occurs. If indicated, the identified needs, short-term goals or objectives, services, and/or service providers must be revised.

b. Reassessment is accomplished through interviews and periodic observations.

c. A schedule for re-assessing 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 re-assessments may be required, depending upon the consumer's situation.

d. 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/re-assessment process.

1. A home-based re-assessment must be done on at least an annual basis unless this is not the consumer's preference or there are genuine concerns regarding safety.

2. If the re-assessment 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 re-assessment procedures are applicable for all targeted and waiver groups. Additional procedures for specific targeted or waiver groups are delineated below.

e. Reassessment for Infants and Toddlers with Special Needs. Ongoing assessment is a component of the IFSP process.

1. 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.

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

3. 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.

11. 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.

a. When closure is deemed appropriate, the consumer must be notified immediately so that appropriate arrangements can be made.

b. The case manager must complete a final re-assessment identifying any unresolved problems or needs and discussing with the consumer methods of arranging for their own services.

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

1. resolution of the consumer's service needs with low probability of recurrence;

2. consumer requests termination of services;

3. death;

4. permanent relocation out of the service area;

5. long-term admission to a hospital, institution or nursing facility;

6. does not meet the criteria for the case management established by the funding source (e.g., Medicaid or the Program Office);

7. the consumer requires a level of care beyond that which can safely be provided through case management;

8. the safety of the case manager is in question; or

9. 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 they do not require and receive two or more of the required Medicaid services.

12. 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.

a. 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:

1. most current service plan;
2. current assessments on which service plan is based;
3. number of services used in the calendar year;
4. current and previous quarter's progress notes.

b. 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.

c. 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:

1. 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.

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

3. 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.

4. The child search coordinator or the family, if the family chooses, will notify the newly selected agency.

5. The child search coordinator will notify the old agency at termination.

6. After receiving written informed paternal 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. Components of the Case Record. 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.

B. 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.

1. Services billed must clearly be related to the current service plan.

2. Billable activities must be of reasonable duration and must agree with the billing claim.

3. 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.

4. 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:

- a. name of consumer;
- b. name of provider and person providing the service;
- c. names and telephone numbers of persons contacted;
- d. start and stop time of service contact and date of service contact;
- e. place of service contact;
- f. purpose of service contact;
- g. content and outcome of service contact.

C. Progress Notes—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, and 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 re-assessment and service plan change;

5. be legible, as well as legibly signed, including functional title, and fully dated;

6. be complete, entered in the record preferably weekly but at least monthly and signed by the primary case manager;

7. be recorded more frequently (weekly) when there is frequent activity or significant changes occur in the consumer's service needs and progress;

8. quarterly progress notes are required in addition to the minimum monthly recording;

9. a summary must also be entered in the consumer's record when a case is transferred or closed.

D. 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.

E. Availability of Case 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.

F. Storage of Case Records. 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.

IV. Reimbursement

A. All reimbursement for optional targeted and waiver case management services shall be made in accordance with all applicable federal and state regulations. Providers shall not bill for failed attempts to make contact with either consumers or collateral.

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. Interim billing of one hour and additional 15-minute increments is permitted up the monthly rate. Interim billing for case management services for Elderly Waiver, MR/DD Waiver and Infants and Toddlers must meet the following criteria for billing and cannot occur prior to providing at least one 15-minute continuous face-to-face encounter in the 30-day cycle and:

1. completion of at least 60 minutes of case management services;

2. additional 15-minute periods of services provided in a 30-day cycle can be billed only after the first hour and the face-to-face encounter has been provided.

C. Hour- or 15-minute codes cannot be accumulated across 30-day cycles and must count anew for each cycle or authorized period if less.

D. 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 collateral 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.

E. Reimbursement Rates

SERVICE	HOUR RATE	MAX UNITS	15 MIN RATE	MAX UNITS	MAX MO PAYMENT
MR/DD Waiver	\$49.00	1	\$12.55	8	\$147
Elderly Waiver	\$49.50	1	\$12.38	4	\$ 99
Infants and Toddlers with special needs	\$66.50	1	\$16.63	4	\$133
HIV infected individuals					\$ 99
High Risk Pregnant Women (On-going Services)	\$57.00				
High Risk Pregnant Women Assessment Only				1 time only	\$130

F. The following Minimum Program Standards are required for the reimbursement of Case Management Services.

1. Mentally Retarded/Developmentally Disabled Individuals in the MR/DD Waiver Program

a. A minimum of three hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. The three hours must include one continuous 15-minute 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 every 60 days.

b. Services shall be authorized for a maximum three 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 are Z0192 (hourly code) and Z1192 (15-minute code) for waiver participants. The maximum monthly payment rate is \$147 for the MR/DD population.

2. Infants and Toddlers with special needs

a. be either a participant in the MR/DD Waiver or receive two or more of the following Medicaid services:

1. assistive technology services and devices;
2. audiology services;
3. health services;
4. medical services provided by a licensed physician to determine a child's developmental status and the need for early intervention services;
5. home health services;
6. occupational therapy services;
7. physical therapy services;
8. psychological services;
9. speech and language pathology;
10. vision services.

b. A minimum of two hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. The two hours must include one continuous 15-minute 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 every 60 days.

c. Services shall be authorized for a maximum three-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.

d. The procedure codes applicable to case management services for the infants and toddler population are Z0194 (hourly code) and Z1194 (15-minute code) for MR/DD waiver participants and Z0193 (hourly code) and Z1193 (15-minute code) for nonwaiver participants. The maximum monthly payment rate is \$133 for both groups of children.

3. Persons Infected with HIV

a. A minimum of two hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. 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.

4. High Risk Pregnant Women of the Metropolitan New Orleans Area

a. A minimum of one hour of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. 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.

5. Home Care for the Elderly Waiver Program Participants

a. A minimum of two hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. 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 every 60 days.

c. The procedures code for this population are Z0188 (hourly code) and Z1188 (15-minute) and the maximum the monthly payment rate is \$99.

G. General Requirements

1. 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. 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 without sufficient justification.

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 the 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.

H. Nonbillable 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 in arranging appropriate services 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 for safety reasons.

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 Rule.

Bobby P. Jindal
Secretary

9611#056

DECLARATION OF EMERGENCY

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

Targeted Case Management Services and Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is 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 currently funds case management services to the following specific population groups:

1. 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. participants in Home- and Community-Based Services Waiver Program who receive case management as a separate service;

The following groups have previously received case management services: seriously mentally ill, MR/DD persons who were not participants of the MR/DD Waiver Program; and ventilator-assisted children.

Previously, these services have been implemented and governed under specific program regulations. The Department seeks to enhance all these services to the optimal level while streamlining their administration and establishes enhanced regulations governing consumer eligibility, provider enrollment, provider standards for participation and reimbursement methodology and requirements, 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; April 20, 1995, Volume 21, Number 4; August 20, 1995, Volume 21, Number 8; November 20, 1995, Volume 21, Number 11; March 20, 1996, Volume 22, Number 3; and July 20, 1996, Volume 22, Number 7). In addition the Bureau adopted emergency rulemaking to revise the reimbursement methodology based on the 15-minute unit of service for the on-going services component to adoption of the flat rate. This revised reimbursement methodology was implemented effective October 1, 1995 (*Louisiana Register* Volume 21 Number 10) which included a monthly reimbursement rate for both components of case management services, the initial assessment/service plan development and the ongoing services. Monthly reimbursement rates were assigned for each population group based upon minimum standards for service delivery for each of these groups. Effective March 1, 1996 the Department adopted an Emergency Rule (*Louisiana Register*, Volume 22, Number 3) which provided for the payment of a one-hour minimum of service delivery and additional 15-minute incremental units up to a cap of the monthly rate once the initial one-hour service minimum is met. The June 11, 1996 Emergency Rule (*Louisiana Register*, Volume 22, Number 6) continued the flat rate methodology and the subsequent modification of this methodology as cited above. These provisions were continued with the adoption of the October 9, 1996

Emergency Rule (*Louisiana Register*, Volume 22, Number 10) which also continued the program reductions implemented this state fiscal year (*Louisiana Register*, Volume 22, Number 6, pages 556 and 574). In addition the Department also adopted emergency rulemaking effective September 24, 1996 (*Louisiana Register*, Volume 22, Number 9) limiting case management services to infants and toddlers who either receive services under the MR/DD waiver or who receive two or more specified Medicaid services. The Department has determined that it is necessary to repeal the limitations on infants and toddlers case management services in the September 24, 1996 Emergency Rule and to reduce the reimbursement rate for these services. This action is necessary to avoid a budget deficit in the Medical Assistance Program and it is anticipated to reduce expenditures by approximately \$381,500 for fiscal year 1996-97.

Emergency Rule

Effective for dates of service December 1, 1996, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions to govern case management services including consumer eligibility requirements, provider enrollment, provider standards for participation and reimbursement methodology and general provisions. These provisions apply to case management services provided either to targeted population groups or to waiver participants who receive case management services as a separate service. These include the following groups of individuals:

1. infants and toddlers with special needs;
2. high-risk pregnant women;
3. persons infected with HIV;
4. persons in Waiver Program(s) who receive case management as a separate service.

All case management providers must follow the policies and procedures included in this notice 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.

The Department repeals the limitations on infants and toddlers case management services in the September 24, 1996 Emergency Rule and reduces the reimbursement rate for these services.

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:

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. 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 the 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 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 listed in 1-16 below to participate as a case management provider in the Medicaid Program, regardless of the targeted or waiver group served:

1. have 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. have established linkages with the resources available in the consumer's community;

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

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

d. employ 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 this document;

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

3. demonstrate 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 Certified Public Accountant 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 define the target population or waiver group to be served;

4. assure 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. assure 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. have a written plan to determine the effectiveness of the program and agrees to implement a continuous quality improvement plan approved by the Department;

7. document and maintain an individual record on each consumer which includes all of the elements described in licensing standards for case management and in this document;

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

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

10. assure 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, assure that the agency and case managers will not provide case management and Medicaid reimbursed direct services to the same consumer(s);

12. have 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. maintain a written policy for intake screening, including referral criteria;

14. maintain a written policy for transition and closure;

15. with the consumer's permission, agree 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 comply with the *Code of Governmental Ethics*.

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

17. demonstrate the capacity to participate and agree to participate in the Case Management Information System (CAMIS) and provide up-to-date data to the Regional Office and/or Program Office on a weekly basis via electronic mail applicable to infants and toddlers with special needs. CAMIS and electronic mail software will be provided without charge to the provider;

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

19. satisfactorily complete a one-day training as approved by the Department of Health and Hospitals HIV Program Office.

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 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.

The above general minimum qualifications for case managers are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in the human-service-related field may be substituted for the year of required paid experience.

d. additional qualifications are required for service provision to High-Risk Pregnant Women:

1. 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; or

2. 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

3. 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

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

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 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 field providing direct consumer services or case management in the human service 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;

The above general minimum qualifications for case management supervisors are applicable for all targeted and waiver groups. Thirty hours of graduate level course credit in the human-service-related field may be substituted for one

year of required paid experience. Additional qualifications for specific targeted or waiver groups are delineated below:

e. each Medicaid-enrolled provider must ensure that all case management supervisory staff for high-risk pregnant women meet the following qualifications:

1. 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;

2. 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

3. 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; demonstrated knowledge about perinatal care; or

4. 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.

a. 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. 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. Other topics covered by the orientation must include, at a minimum:

- 1. provider policies and procedures;
- 2. Medicaid/Program Office policies and procedures;
- 3. confidentiality;
- 4. documentation in case records;
- 5. consumer rights protection and reporting of violations;
- 6. consumer abuse and neglect policies and procedures;
- 7. professional ethics;
- 8. emergency and safety procedures;
- 9. data management and record keeping;
- 10. infection control and universal precautions.

b. 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:

- 1. assessment techniques;
- 2. service planning;
- 3. resource identification;
- 4. interviewing and interpersonal skills;
- 5. data management and record keeping;
- 6. communication skills.

c. 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 Department of Health and Hospitals *Case*

Management Provider Manual contains a list of suggested additional training topics.

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

- 1. professional identification/ethics;
- 2. process for interviewing, screening, and hiring of staff;
- 3. orientation/in-service training of staff;
- 4. evaluating staff;
- 5. approaches to supervision;
- 6. managing caseload size;
- 7. conflict resolution;
- 8. documentation;
- 9. 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.

d. Training—Infants and Toddlers with Special Needs

1. 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. 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.

2. 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.

e. 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 when provided.

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:

1. direct review, assessment, problem solving, and feedback regarding the delivery of case management services;
2. teaching and monitoring of the application of consumer centered principles and practices;
3. assuring quality delivery of services;
4. managing assignment of caseloads; and
5. arranging for training as appropriate.

The case manager supervisor must assess staff performance, review individual cases, provide feedback and help staff develop problem solving skills using two or more of the following methods:

1. individual, face-to-face sessions with staff;
2. group face-to-face sessions with all case management staff; or
3. sessions in which the supervisor accompanies a case manager to meet with consumers.

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

1. date and content of the supervisory sessions; and
2. 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.

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

GROUP	CASES
MR/DD Waiver	4.5
Infants and toddlers with special needs	35
High-risk pregnant women	60
HIV infected	45
Fragile elderly	40

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 MR/DD waiver participants in addition to those who are infants and toddlers with special needs, the maximum caseload is 35. For other "mixed" caseloads, the number of cases must be 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 Multidisciplinary 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. The infant/toddler must meet the following criteria:

- a. have a medical condition established and documented by a licensed medical doctor. In the case of a hearing impairment, a licensed audiologist or licensed medical doctor must make the determination; or
- b. be developmentally delayed 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. 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 by DHH;
- d. must require services from multiple health, social, informal and formal service providers and is unable to access the necessary services.

3. HIV Infected Persons

- 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 be unable to access the necessary services.

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

5. MR/DD Waiver. The consumer must be participant in the MR/DD 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 consist of intake, assessment, service planning, linkage/service coordination, monitoring/follow-up, re-assessment, 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 include 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.

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.

2. *Intake for Infants and Toddlers with Special Needs* is defined as a comprehensive interagency multidisciplinary, 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.

3. Intake for High-Risk Pregnant Women must include 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 by DHH;

4. 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:

1. identifying information;
2. medical/physical;
3. psychosocial/behavioral;
4. developmental/intellectual;
5. socialization/recreational;
6. financial;
7. educational/vocational;
8. family functioning;

9. personal and community support systems;
10. housing/physical environment; and
11. 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.

5. **Assessment for Infants and Toddlers with Special Needs.** The child search coordinator is responsible for ensuring all the components of the assessment/multidisciplinary 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 multidisciplinary 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;

e. the MDE must include the following:

1. a review of pertinent records related to the child's current health status and medical history;

2. results of a KIDMED screening or documented referral for KIDMED screening;

3. 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;

4. an assessment of the child's strengths and needs and the identification of appropriate early intervention services to meet those needs; and

5. with family consent, the family's identification of their concerns, priorities and resources related to enhancing the development of their child;

6. be signed and dated by multidisciplinary team participants.

6. *Assessment for High-Risk Pregnant Women*—a multidisciplinary 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.

1. Each professional assessment must reflect the identified areas for counseling, intervention and follow up services.

2. The nursing, nutritional, and psychosocial assessments must be documented on standardized forms approved by the Department.

3. 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.

4. The case manager is responsible for assisting the family through the multidisciplinary evaluation process including the following:

a. coordinating the performance of identified or necessary evaluations to ensure timely completion in preparation for the multidisciplinary team staffing;

b. identifying or coordinating the identification of the consumer's concerns, priorities and resources.

5. 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.

7. Case Management Service Planning. *Service Planning* is defined as the development of a written agreement based upon assessment data (which may be multidisciplinary), 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.

a. 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.

b. The service plan must be completed within 45 calendar days of the referral for case management services.

1. The consumer must be informed of his or her right to refuse a service plan after carefully reviewing it.

2. The service plan must be signed and dated by the consumer and the case manager.

c. Although service plans may have different formats, all plans must incorporate all of the following required components:

1. statement of prioritized long-range goals (problems or needs) which have been identified in the assessment;

2. one or more short-term objectives or expected outcomes linked to each goal that is to be addressed in order of priority;

3. specification of action steps, services or interventions planned, and payment mechanism, if applicable;

4. assignment of individual responsibility for goal accomplishment; and

5. time frames for completion or review.

d. 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 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.

e. 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;

1. convening a meeting to develop the IFSP within 45 calendar days of referral;

2. attending the IFSP meeting;

3. 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.

8. 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.

9. *Case Management Follow-Up/Monitoring*—defined as the follow-up mechanism to assure applicability of the service plan.

a. 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.

b. 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.

c. 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.

d. 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.

e. 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 (e.g., telephone, home

visit) and the individuals contacted is determined by the status and needs of the consumer, as identified in the service plan and determined by the case manager.

Through follow-up/monitoring 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.

f. Monitoring of services provided includes the following:

1. following up to assure that the consumer actually received the services as scheduled;
2. assuring that consumer/consumer's family is able and willing to comply with recommendations of service providers;
3. 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.

g. 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.

10. 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.

a. 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 re-evaluated on a routine basis or when a significant change in status or needs occurs. If indicated, the identified needs, short-term goals or objectives, services, and/or service providers must be revised.

b. Reassessment is accomplished through interviews and periodic observations.

c. A schedule for re-assessing 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 re-assessments may be required, depending upon the consumer's situation.

d. 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/re-assessment process.

1. A home-based re-assessment must be done on at least an annual basis unless this is not the consumer's preference or there are genuine concerns regarding safety.

2. If the re-assessment 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 re-assessment procedures are applicable for all targeted and waiver groups. Additional procedures for specific targeted or waiver groups are delineated below.

e. Reassessment for Infants and Toddlers with Special Needs. Ongoing assessment is a component of the IFSP process.

1. 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.

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

3. 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.

11. 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.

a. When closure is deemed appropriate, the consumer must be notified immediately so that appropriate arrangements can be made.

b. The case manager must complete a final re-assessment identifying any unresolved problems or needs and discussing with the consumer methods of arranging for their own services.

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

1. resolution of the consumer's service needs with low probability of recurrence;

2. consumer requests termination of services;

3. death;

4. permanent relocation out of the service area;

5. long-term admission to a hospital, institution or nursing facility;

6. does not meet the criteria for the case management established by the funding source (e.g., Medicaid or the Program Office);

7. the consumer requires a level of care beyond that which can safely be provided through case management;

8. the safety of the case manager is in question; or
9. 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 they do not require and receive two or more of the required Medicaid services.

12. 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.

a. 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:

1. most current service plan;
2. current assessments on which service plan is based;
3. number of services used in the calendar year;
4. current and previous quarter's progress notes.

b. 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.

c. 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:

1. 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.
2. The child search coordinator will provide the family with the official list of family service coordination providers and the freedom of choice form.
3. 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.
4. The child search coordinator or the family, if the family chooses, will notify the newly selected agency.
5. The child search coordinator will notify the old agency at termination.
6. After receiving written informed paternal 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. Components of the Case Record. 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.

B. 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.

1. Services billed must clearly be related to the current service plan.
2. Billable activities must be of reasonable duration and must agree with the billing claim.
3. 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.

4. 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:

- a. name of consumer;
- b. name of provider and person providing the service;
- c. names and telephone numbers of persons contacted;
- d. start and stop time of service contact and date of service contact;
- e. place of service contact;
- f. purpose of service contact;
- g. content and outcome of service contact.

C. *Progress Notes*—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, and 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 re-assessment and service plan change;
- 5. be legible, as well as legibly signed, including functional title, and fully dated;
- 6. be complete, entered in the record preferably weekly but at least monthly and signed by the primary case manager;
- 7. be recorded more frequently (weekly) when there is frequent activity or significant changes occur in the consumer's service needs and progress;
- 8. quarterly progress notes are required in addition to the minimum monthly recording;
- 9. a summary must also be entered in the consumer's record when a case is transferred or closed.

D. 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.

E. *Availability of Case 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.

F. *Storage of Case Records*. 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.

IV. Reimbursement

A. All reimbursement for optional targeted and waiver case management services shall be made in accordance with all applicable federal and state regulations. Providers shall not bill for failed attempts to make contact with either consumers or collateral.

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. Interim billing of one hour and additional 15-minute increments is permitted up the monthly rate. Interim billing for case management services for Elderly Waiver, MR/DD Waiver and Infants and Toddlers must meet the following criteria for billing and cannot occur prior to providing at least one 15-minute continuous face-to-face encounter in the 30-day cycle and:

- 1. completion of at least 60 minutes of case management services;
- 2. additional 15-minute periods of services provided in a 30-day cycle can be billed only after the first hour and the face-to-face encounter has been provided.

C. Hour- or 15-minute codes cannot be accumulated across 30-day cycles and must count anew for each cycle or authorized period if less.

D. 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 collateral 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.

E. Reimbursement Rates

SERVICE	HOUR RATE	MAX UNITS	15 MIN RATE	MAX UNITS	MAX MO PAYMENT
MR/DD Waiver	\$49.00	1	\$12.55	8	\$147
Elderly Waiver	\$49.50	1	\$12.38	4	\$ 99
Infants and Toddlers with special needs	\$49.00	1	\$12.55	4	\$ 98
HIV infected individuals					\$ 99
High Risk Pregnant Women (On-going Services)	\$57.00				
High Risk Pregnant Women Assessment Only			1 time only		\$ 130

F. The following Minimum Program Standards are required for the reimbursement of Case Management Services.

1. Mentally Retarded/Developmentally Disabled Individuals in the MR/DD Waiver Program.

a. A minimum of three hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. The three hours must include one continuous 15-minute 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 every 60 days.

b. Services shall be authorized for a maximum three-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 are Z0192 (hourly code) and Z1192 (15-minute code) for waiver participants. The maximum monthly payment rate is \$147 for the MR/DD population.

2. Infants and Toddlers with Special Needs

a. A minimum of two hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. The two hours must include one continuous 15-minute 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 every 60 days.

b. Services shall be authorized for a maximum three-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 are Z0194 (hourly code) and Z1194 (15-minute code) for MR/DD waiver participants and Z0193 (hourly code) and Z1193 (15-minute code) for nonwaiver participants. The maximum monthly payment rate is \$98 for both groups of children.

3. Persons Infected with HIV

a. A minimum of two hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. 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.

4. High Risk Pregnant Women of the Metropolitan New Orleans Area

a. A minimum of one hour of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. 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.

5. Home Care for the Elderly Waiver Program Participants

a. A minimum of two-hours of documented case management services provided in each month in which services are billed is necessary to receive the full monthly fee. 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 every 60 days.

c. The procedures code for this population are Z0188 (hourly code) and Z1188 (15-minute), and the maximum the monthly payment rate is \$99.

G. General Requirements

1. 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. 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 without sufficient justification.

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 the 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.

H. Nonbillable 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 in arranging appropriate services 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 for safety reasons.

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 Rule.

Bobby P. Jindal
Secretary

9611#074

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Gaming Control Board

Definitions; License Issuance/Renewal; Hearings; and
Chairman Delegation (LAC 42)

In accordance with the provisions of the R.S. 49:950 et seq., the Louisiana Gaming Control Board hereby determines that adoption of emergency rules relative to authority of the Louisiana State Police, administrative hearings and delegation of authority to the Chairman is necessary and that for the following reasons failure to adopt rules on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act 7 of the First Extraordinary Session of 1996, effective May 1, 1996, created the Louisiana Gaming Control Board with all regulatory authority, control and jurisdiction, including investigation, licensing and enforcement, and all power incidental or necessary to such regulatory authority, control and jurisdiction over all aspects of gaming activities and operations as authorized pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, the Louisiana Economic Development and Gaming Corporation Act, and the Video Draw Poker Devices Control Law.

Further, Act 7 provides that all powers, duties, functions and responsibilities of the Riverboat Gaming Commission, Video Gaming Division and Riverboat Gaming Enforcement Division of State Police, and the Louisiana Economic Development and Gaming Corporation are transferred to and shall be performed and exercised by the Louisiana Gaming Control Board, and that the powers, duties, functions and responsibilities and any pending or unfinished business of those regulatory entities becomes the business of and shall be completed by the Louisiana Gaming Control Board with the same power and authority as the entity from which the functions are transferred.

The Legislature has determined that development of a controlled gaming industry to promote economic development of the state requires thorough and careful exercise of legislative power to protect the general welfare of the state's people by keeping the state free from criminal and corrupt elements, and that it is the public policy of the state to this end that all persons, locations, practices, associations and activities related to the operation of licensed and qualified gaming establishments and the manufacture, supply, or distribution of gaming devices and equipment shall be strictly regulated.

Pending the appointment of the Louisiana Gaming Control Board numerous licensing, investigation and enforcement matters have developed and continue to develop. Act 7 provides that State Police, the former licensor, may now only issue certain limited licenses and renewals in accordance with rules adopted by the Board.

Hundreds of applications require immediate administrative action by the Board. Act 7 provides that the Board may delegate to the Chairman such powers as the Board deems appropriate, which, pursuant to the Board's rules, may be performed expeditiously without the necessity of meetings of the Board.

In addition, rules governing provisions for administrative hearings are essential to the licensing process and immediate licensing decisions which will be made in the near future to ensure due process is afforded applicants for licenses and permits.

For the foregoing reasons, the Louisiana Gaming Control Board has determined adoption of emergency rules is necessary and hereby adopts these Emergency Rules, effective November 11, 1996, through November 20, 1996, in accordance with R.S. 49:953(B).

The text of this Rule is identical to the text being published in the final Rule, effective November 20, 1996, found in this issue of the *Louisiana Register*.

Hillary J. Crain
Chairman

9611#025

DECLARATION OF EMERGENCY

Department of Revenue and Taxation Tax Commission

Ad Valorem Taxation
(LAC 61:V.Chapters 7-31)

The Louisiana Tax Commission, at its meeting of November 6, 1996, exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions and amendments to the 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, 1997. Cost indices required to finalize these assessment tables are not available to this Office until late October, 1996. The effective date of this Emergency Rule is January 1, 1997.

Title 61 REVENUE AND TAXATION Part V. Ad Valorem Taxation

Chapter 7. Watercraft §703. Tables - Watercraft

Table 703.B Floating Equipment Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1996	0.997	1	94	.94
1995	1.012	2	87	.88
1994	1.048	3	80	.84
1993	1.078	4	73	.79
1992	1.099	5	66	.73
1991	1.112	6	58	.64
1990	1.134	7	50	.57

1989	1.165	8	43	.50
1988	1.227	9	36	.44
1987	1.280	10	29	.37
1986	1.298	11	24	.31
1985	1.311	12	22	.29
1984	1.330	13	20	.27

Table 703.C Floating Equipment Barges (Nonmotorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1996	0.997	1	97	.97
1995	1.012	2	93	.94
1994	1.048	3	90	.94
1993	1.078	4	86	.93
1992	1.099	5	82	.90
1991	1.112	6	78	.87
1990	1.134	7	74	.84
1989	1.165	8	70	.82
1988	1.227	9	65	.80
1987	1.280	10	60	.77
1986	1.298	11	55	.71
1985	1.311	12	50	.66
1984	1.330	13	45	.60
1983	1.366	14	40	.55
1982	1.391	15	35	.49
1981	1.456	16	31	.45
1980	1.606	17	27	.43
1979	1.767	18	24	.42
1978	1.931	19	22	.42
1977	2.077	20	21	.44
1976	2.187	21	20	.44

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 and 10:925 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR

19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:

Chapter 9. Oil and Gas Properties

§907. Tables - Oil and Gas

Table 907.A-1 Oil, Gas and Associated Wells				

Producing Depths	Cost-New Value by Depth Per Foot		**15% of Cost- New By Depth Per Foot	
	Region 1*	Region 2*	Region 1*	Region 2*
0- 1,249 ft.	\$ 4.58	\$ 9.48	\$.69	\$ 1.42
1,250- 2,499 ft.	8.24	17.33	1.24	2.60
2,500- 3,749 ft.	11.16	23.07	1.67	3.46
3,750- 4,999 ft.	12.10	26.05	1.82	3.91
5,000- 7,499 ft.	26.71	56.03	4.01	8.40
7,500- 9,999 ft.	24.84	52.09	3.73	7.81
10,000-12,499 ft.	39.37	39.37	5.91	5.91
12,500-14,999 ft.	55.51	55.51	8.33	8.33
15,000-17,499 ft.	77.35	77.35	11.60	11.60
17,500-19,999 ft.	94.11	94.11	14.12	14.12
20,000-Deeper ft.	105.22	105.22	15.78	15.78

Instructions for Use of Tables 907.A-1, 907.A-2 and 907.A-3 and Procedure for Arriving at Assessed Value

Adjustments for Allowance of Economic Obsolescence

4. Obsolescence credits may be based on production schedules as a basis for establishing a total assessment cap to be applied to both wells and surface equipment.

5. Note: All oil and gas property assessments may be based on an individual cost basis.

Table 907.A-3 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25-Year Life Percent Good
1996	218653	Higher	98 percent
1995	217588	218652	95 percent
1994	216475	217587	93 percent
1993	215326	216474	90 percent
1992	214190	215325	87 percent
1991	212881	214189	84 percent

1990	211174	212880	81 percent
1989	209484	211173	78 percent
1988	207633	209483	75 percent
1987	205211	207632	71 percent
1986	202933	205210	68 percent
1985	197563	202932	64 percent
1984	189942	197562	60 percent
1983	184490	189941	56 percent
1982	179370	184489	52 percent
1981	173109	179369	48 percent
1980	166724	173108	44 percent
1979	162463	166723	39 percent
1978	158114	162462	34 percent
1977	154410	158113	30 percent
1976	150983	154409	26 percent
1975	147695	150982	23 percent
1974	144502	147694	21 percent
1973	Lower	144501	20 percent
VAR.	900000	Higher	50 percent

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1996), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:

Chapter 11. Drilling Rigs and Related Equipment §1103. Drilling Rigs and Related Equipment Tables

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
3,000	\$ 52,950	\$ 7,900
4,000	70,600	10,600
5,000	88,250	13,200
6,000	105,900	15,900
7,000	123,550	18,500
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment

8,000	\$163,760	\$ 24,500
9,000	184,230	27,600
10,000	204,700	30,700
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
11,000	\$ 214,390	\$ 32,200
12,000	233,880	35,100
13,000	253,370	38,000
14,000	272,860	40,900
15,000	292,350	43,800
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
16,000	\$ 305,600	\$ 45,800
17,000	324,700	48,700
18,000	343,800	51,600
19,000	362,900	54,400
20,000	382,000	57,300
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
21,000	\$ 456,960	\$68,500
25,000 +	544,000	81,600

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment

IC	300- Up Ft.	24,875,000	3,731,250

Table 1103.C Semisubmersible Rigs			

Note: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

Consideration of Obsolescence

Functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, functional obsolescence shall be given.

If functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1996	0.997	1	92	.92
1995	1.012	2	84	.85
1994	1.048	3	76	.80
1993	1.078	4	67	.72
1992	1.099	5	58	.64
1991	1.112	6	49	.54
1990	1.134	7	39	.44
1989	1.165	8	30	.35
1988	1.227	9	24	.29
1987	1.280	10	21	.27
1986	1.298	11	20	.26

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:

Chapter 17. Inventories

§1701. Guidelines for Ascertaining the Fair Market Value of Inventories

H. Assessment of Inventory. The assessed value shall be based upon 15 percent of the average inventory cost for the preceding calendar or fiscal year. Any inventory that existed less than a full year shall be averaged for the months it had

situs at the reported location. However, this does not mean to annualize the monthly inventory costs if less than 12 months are used to calculate the average inventory to be assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2322.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 13:188 (March 1987), LR 23:

Chapter 25. General Business Assets

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

Table 2503.A Suggested Guidelines for Ascertaining Economic Lives of Business and Industrial Personal Property	

Business Activity/Type of Equipment	Average Economic Life In Years

Pollution Control M and E	15

Table 2503.B Cost Indexes		
Year	National Average 1926 = 100	January 1, 1996 = 100*
1996	1036.0	0.997
1995	1020.4	1.012
1994	985.0	1.048
1993	958.0	1.078
1992	939.8	1.099
1991	928.5	1.112
1990	910.2	1.134
1989	886.5	1.165
1988	841.4	1.227
1987	806.9	1.280
1986	795.4	1.298
1985	787.9	1.311
1984	776.4	1.330
1983	755.8	1.366
1982	742.4	1.391
1981	709.2	1.456
1980	642.8	1.606

1979	584.4	1.767
1978	534.7	1.931
1977	497.1	2.077
1976	472.1	2.187
1975	444.3	2.324
1974	398.4	2.592
1973	344.1	3.001
1972	332.1	3.109
1971	321.3	3.214

*Reappraisal Date: January 1, 1996 - 1032.6 (Base Year)

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 and 10:945 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:

**Chapter 27. Use Value
§2705. Classification**

Lincoln

St. Helena

Vermilion

AUTHORITY NOTE: Promulgated in accordance with LSA - Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), LR 19:212 (February 1993), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:

§2707. Map Index Table

Table 2707 Map Index Listing of General Soil Maps and Modern Soil Surveys for the State of Louisiana Published by U.S. Dept. of Agriculture, Natural Resources Conservation Service in Cooperation with Louisiana Agricultural Experiment Station			
Parish	Date (General)	Map Number (General)	Date Published or Status (Modern)

Lincoln	Sept., 1972	4-R-17131-B	April, 1996

St. Helena	Mar., 1971	4-R-17438-A	April, 1996

Vermilion	Jan., 1970	4-R-28747-A	May, 1996

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 and R.S. 47:2308.

Table 2503.D Composite Multipliers 1997 (1998 Orleans Parish)								
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.85	.90	.92	.94	.95	.97	.98
2	.50	.70	.80	.85	.88	.91	.94	.96
3	.36	.54	.70	.80	.84	.89	.94	.97
4	.22	.37	.58	.72	.79	.85	.93	.97
5		.25	.47	.64	.73	.80	.90	.96
6		.22	.37	.54	.64	.76	.87	.93
7			.29	.44	.57	.70	.84	.92
8			.26	.35	.50	.64	.82	.91
9			.25	.29	.44	.60	.80	.92
10				.27	.37	.55	.77	.91
11				.26	.31	.48	.71	.88
12					.29	.41	.66	.84
13					.27	.35	.60	.80
14						.31	.55	.76
15						.29	.49	.72
16						.29	.45	.70
17							.43	.71
18							.42	.69
19							.42	.66
20							.44	.62
21							.44	.57
22								.53
23								.54
24								.60
25								.62
26								.64

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 3:290 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:946 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:

§2717. Tables - Use Value

Table 2717.C Average Assessed Value Per Acre, by Class of Marsh Land	
Class	Assessed Value Per Acre
Fresh Water Marsh	\$ 7.00
Brackish Water Marsh	\$ 6.00
Salt Water Marsh	\$ 5.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:248 (April 1987), LR 13:764 (December 1987), LR 14:110 (February 1988), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:

Chapter 31. Public Exposure of Assessments; Appeals

§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

D. Each assessor will make any determined changes to the assessment list during the public exposure period, and shall certify the assessment lists to the parish Board of Review within three days of the final exposure date. The Orleans Parish Assessors shall certify their assessment lists to the Board of Review on or before the tenth business day after August 15.

F. The Parish Police Jury or Parish Council shall sit as a Board of Review for a period of 15 days (beginning on the fourth day and concluding on the 18th day following the final assessment lists exposure date). The Board of Review may have only one hearing date or as many hearing dates as may be required within its 15 day review period. The Orleans Parish Board of Review shall convene hearings on or before September 15.

G. The Board of Review shall hear the complaint of qualified persons as provided in R.S. 47:1992, who have provided a written appeal (Form 3101) to the Board of Review at least seven days prior notice either through appearing in person at its office or by filing such appeal by means of certified mail. Orleans Parish appellants shall submit a written appeal directly to the Municipal District Assessor within three regular work days of August 15; which appeals shall then be filed to the Orleans Parish Board of Review within seven regular work days of August 15. At the public hearing/s, the Board of Review shall determine if an

assessment of real or personal property should be changed and determine the amount of any change, whether an increase or a decrease and change the assessment lists accordingly. The Board of Review shall certify the parish assessment lists, including any changes thereon, to the Tax Commission, no later than the 21st day after the final public exposure date. The Orleans Parish Board of Review shall certify the assessment lists to the Tax Commission on or before October 20 of each year. If the Board of Review has satisfied all legal requirements, protecting the taxpayer's appeal rights, and, the Board of Review hearing/s is/are completed prior to the 15 day deadline, the Tax Commission will accept an earlier certification of the assessment lists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:

§3105. Practice and Procedure For Public Service Properties Hearings

A. The Tax Commission or its designated representative, as provided by law (that is a hearing officer), shall conduct hearings to consider the written protest of an appellant taxpayer, who shall be required to use Form 3105.A. The appeal shall be filed within 30 days of the Tax Commission's dated Certificate of Value to the taxpayer. The taxpayer shall also submit an "Exhibit B, Appointment of Taxpayer Agent", Form 3105.B, for any attorney or other representative of the taxpayer, who is not a full time employee of the taxpayer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:

Chapter 35. Miscellaneous

§3503. Homestead Exemptions

A. General Provisions

2. The Constitution exempts to the extent of \$7,500 of assessed value:

b. The same homestead exemption shall also fully apply to a mobile home or other similar manufactured housing which serves as a bona fide home, which is owned and occupied by any person, regardless of whether the homeowner owns the land upon which the home is sited.

c. This exemption also extends to: "the surviving spouse or minor child of a deceased owner...when the homestead is occupied as such and title to it is in either the husband or the wife...."

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1064 (December 1990), amended LR: 17:611 (June 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 23:

§3507. Claim for Taxes Paid in Error

* * *

6. The claim must be presented to the Tax Commission within three years of the erroneous payment. The date of payment shall be shown by a dated receipt from the Tax Collector; or, by a date marked by the Collector on the check on the date of payment or processing; or, if neither is available, the date of processing, or cancellation marked by the bank in which the check was deposited.

a. The claim should be sent with return receipt requested to provide proof of receipt by the Tax Commission. If it is not sent in this manner, the post mark date on the envelope shall be the date on which the claim is made to the Tax Commission for determination of a timely filed claim.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2108.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1063 (December 1990), amended LR 19:212 (February 1993), LR 20:198 (February 1994), LR 22:117 (February 1996), LR 23:

Malcolm B. Price, Jr.
Chairman

9611#073

DECLARATION OF EMERGENCY

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

SES—Payment Distribution (LAC 67:III.2514)

The Department of Social Services, Office of Family Support has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following Rule in LAC 67:III.Subpart 4, Support Enforcement Services effective November 1, 1996. This Emergency Rule shall remain in effect for a period of 120 days.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, revisions have been made to the method in which Support Enforcement Services distributes child support collections. Prior federal law totally mandated the manner of distribution. Federal law now requires that reimbursement of the federal portion of the AFDC/FITAP benefits be made first; and then the state may retain or distribute the remainder as it

chooses. Therefore, the state must now establish a procedure in order to distribute funds, and an Emergency Rule is necessary to prevent payments from being delayed to the applicant/recipient which could result in undue financial hardship.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Support Payments

§2514. Distribution of Child Support Collections

A. Effective November 1, 1996 the Agency will distribute child support collections in the following manner:

1. In cases in which the applicant/recipient (AR) currently receives AFDC/Family Independence Temporary Assistance Program (FITAP) benefits, collections received in a month will be retained by the state to reimburse previous and current assistance amounts, with the following exceptions:

a. In cases in which the collection amount and the court-ordered monthly obligation exceed the AFDC/FITAP amount, the AR will be refunded an amount that, added to the AFDC/FITAP amount, will bring the AR up to the court-ordered monthly obligation amount.

b. In cases in which the collection amount exceeds the amount of unreimbursed grant, the excess will be refunded to the AR up to the current arrearage amount.

2. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received in a month will be distributed as follows:

a. The AR will be refunded an amount equal to the court-ordered monthly obligation.

b. Any excess amount will be applied to amounts owed to the state.

c. Any remaining amounts will be paid to the AR.

3. In cases in which the AR never received assistance, or the AR previously received AFDC or FITAP and no amount is owed to the state, all collections will be refunded to the AR.

4. In IV-E Foster Care cases, all amounts collected are sent to the IV-E Agency for appropriate distribution.

B. There are general exceptions to distribution. Any collections received through intercept programs or income assignments, are subject to refund to the noncustodial parent based on federal and state laws and regulations. Amounts collected through IRS and/or state tax intercepts will be applied to arrears in this order:

1. amounts owed to the state; and

2. amounts owed to the AR.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:

Madlyn B. Bagneris
Secretary

9611#029

DECLARATION OF EMERGENCY

Department of Treasury Board of Trustees of the State Employees Group Benefits Program

Plan Document—Continuation of Coverage and Disability

Pursuant to the authority granted by 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 invokes the Emergency Rule provisions of R.S. 49:953(B) to amend to the Plan Document of Benefits.

The Board finds that it is necessary to amend the Plan Document to implement changes included in the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191), effective January 1, 1997, to avoid sanctions or penalties from the United States.

Accordingly, Article 1, Section III, Subsection K, Paragraph 5 of the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended to read as follows:

5. Effective January 1, 1997, if a Covered Employee or Covered Dependent is determined by Social Security, or by the State Employees Group Benefits Program staff in the case of a person who is ineligible for Social Security disability due to insufficient "quarters" of employment, to have been totally disabled on the date such person became eligible for continued coverage under this Section, or within the first 60 days thereafter, and such person elects to continue coverage pursuant to the provisions of Article 1, Section III (E) or (J), coverage under this Plan for the Covered Person who is totally disabled may be extended AT HIS OR HER OWN EXPENSE up to a maximum of 29 months from the date coverage would have otherwise terminated in the absence of Article 1, Section III (E). To qualify under this Section III(K)(5) the Covered Person must:

* * *

This amendment shall become effective on January 1, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

James R. Plaisance
Executive Director

9611#006

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of Fisheries

Commercial Red Snapper Closure

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:317 which provides that the Secretary of the Department may declare a closed season when it is in the best interest of the state, the Secretary of the Department of Wildlife and Fisheries hereby

finds that an imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule.

Effective 12 Midnight, October 22, 1996, the commercial fishery for red snapper in Louisiana waters will close until 12:01 a.m. February 1, 1997. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with the closure, no person shall possess red snapper in excess of a daily bag limit. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

The Secretary has been notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service that the gulfwide commercial red snapper quota has been reached, and the season closure is necessary to prevent overfishing of this species.

James H. Jenkins, Jr.
Secretary

9611#005

Rules

RULE

Department of Civil Service Board of Ethics for Elected Officials

Lobbyist Required Registration and Reporting

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Board of Ethics for Elected Officials, has adopted forms, as required by R.S. 24:53(G), which enable lobbyists to register and file required semi-annual expenditure reports.

Form 1

LOBBYING EXPENDITURE REPORT
COVERING JULY 1 THROUGH DECEMBER 31, 1996 DUE FEBRUARY 15, 1997

Lobbyist's Registration Number _____
--

FOR OFFICE USE ONLY Postmark Date: _____

Instructions

- Print in ink or type.
- Fill in Registration Number in spaces provided.
- Complete form, have it notarized and return to the Board of Ethics, 8401 United Plaza Boulevard., Suite 200, Baton Rouge, LA 70809, (504) 922-1400
- This form must be delivered or postmarked by the due date.
- This form may be faxed to (504) 922-1414. The original should be forwarded on the day of fax transmittal.

1. NAME _____
Last First MI

2. BUSINESS ADDRESS _____
Street and Number

City State Zip
 3. BUSINESS PHONE _____
Area Code and Telephone Number

4. Total of all expenditures made during this reporting period: \$ _____

5. Total of all expenditures made during the calendar year: \$ _____

6. Did you make an expenditure exceeding \$50 on one occasion for any one legislator from July 1, 1996 through December 31, 1996?

Yes No

If the answer to Number 6 above is YES, please complete Schedule A and attach.

7. Did you make expenditures exceeding the sum of \$250 for any one legislator from July 1, 1996 through December 31, 1996?

Yes No

If the answer to Number 7 above is YES, please complete Schedule A and attach.

8. Did you expend funds for a reception, social gathering, or other function to which the entire legislature, either house, any standing committee, select committee, statutory committee, committee created by resolution of either house, subcommittee of any committee, recognized caucus, or any delegation thereof, were invited during the reporting period?

Yes No

If the answer to Number 8 above is YES, please complete Schedule B and attach.

State of _____
 Parish of _____

Before me, the undersigned authority, personally came and appeared _____, who, after being duly sworn by me, did declare and acknowledge to me that the above statements are true and correct.

 Signature of Lobbyist

Sworn to and subscribed before me on this _____ day of _____, 19 _____.

 Notary Public

SCHEDULE A: EXPENDITURES FOR LEGISLATORS

This schedule must be completed if you answered YES to either or both questions 6 or 7 on the Lobbying Expenditure Report. If, during the period July 1, 1996 through December 31, 1996, you made either a) an expenditure for any one legislator exceeding \$50 on any one occasion or b) aggregate expenditures exceeding \$250 for any one legislator during said period, then, in either event, you must provide the information requested below.

1. LEGISLATOR'S NAME	2. AMOUNT OF EXPENDITURES July 1, 1996 through December 31, 1996
EXAMPLE: Rep. John Deere	\$160
EXAMPLE: Sen. Jane Doe	\$290

SCHEDULE B: EXPENDITURES FOR RECEPTIONS, ETC.

This Schedule must be completed if you answered YES to question 8 on the Lobbying Expenditure Report. The following information must be provided for all receptions, social gatherings, or other functions to which the entire legislature, either house, any standing committee, select committee, statutory committee, committee created by resolution of either house, subcommittee of any committee, recognized caucus, or any delegation thereof, was invited.

1. NAME(S) OF GROUP(S) INVITED	2. DATE OF RECEPTION	3. LOCATION OF RECEPTION	4. TOTAL AMOUNT OF EXPENDITURES FOR ATTENDING LEGISLATORS*
EXAMPLE: XYZ Caucus	July 10, 1996	White House Inn 123 Apple Street Baton Rouge, LA	\$214.22

*No amount expended on persons other than attending legislators is reportable.

Form 2

LOBBYING REGISTRATION FORM

To be used for initial registrations and renewals. Registrations expire on January 31 unless a renewal is submitted between December 1 and January 31.

Lobbyist's
 Registration
 Number _____

FOR OFFICE USE ONLY
 Postmark
 Date: _____

Instructions

- Print in ink or type.
- Complete form, have it notarized and return with \$10 registration fee to the Board of Ethics, 8401 United Plaza Boulevard., Suite 200, Baton Rouge, LA 70809-7017, (504) 922-1400.
- Initial registrations must be submitted within 5 days of (1) employment as a lobbyist or (2) first action requiring registration. Renewals must be submitted between December 1 and January 31.
- Complete employer verification form(s) for each employer and each person you represent as listed below.

1. NAME _____
Last First MI

2. BUSINESS PHONE _____
Area Code and Phone Number

3. BUSINESS ADDRESS _____
Street and No. City State Zip

4. EMPLOYER _____

5. EMPLOYER'S ADDRESS _____
Street and No. City State Zip

6. LIST BELOW (a) Names of persons, groups, or organizations which you represent; (b) the address of each such person, group, or organization you represent; (c) the type of business each is engaged in or the purpose or function of the organization or group; (d) whether or not the client or someone else pays you to lobby. R.S. 24:53(C) REQUIRES THAT A VERIFICATION FORM BE SIGNED BY EACH PERSON YOU REPRESENT OR WHO EMPLOYS YOU. THOSE FORMS MUST MATCH THIS LISTING.

1. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, who pays you? _____
2. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, who pays you? _____
3. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, who pays you? _____
4. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, who pays you? _____
5. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, who pays you? _____

State of _____
Parish of _____

Before me, the undersigned authority, personally came and appeared _____, who, after being duly sworn by me, did declare and acknowledge to me that the above statements are true and correct.

Signature of Lobbyist _____
Sworn to and subscribed before me on this _____ day of _____, 19____.

Notary Public

Rev. 6/96

ATTACH
2" x 2"
PHOTOGRAPH
HERE
FOR
INITIAL
REGISTRATION
ONLY

Form 3

**LOBBYING SUPPLEMENTAL
REGISTRATION FORM**

To be used for changes to
registrations and terminations.

Lobbyist's
Registration
Number _____

Instructions

- Print in ink or type.
- Complete form, have it notarized and return with \$10 fee to Board of Ethics, 8401 United Plaza Boulevard., Suite 200 Baton Rouge LA 70809-7017, (504) 922-1400.
- This form must be submitted within 5 days of any changes in your registration form to add employers or those you represent or if you cease all activities requiring registration. It must be submitted within 10 days of any terminations of employment or representations.
- Complete employer verification form(s) must be submitted for each additional representation.

**FOR OFFICE
USE ONLY**

Postmark
Date: _____

1. NAME _____
Last First MI
2. BUSINESS PHONE _____
3. BUSINESS ADDRESS _____
Street and No. City State Zip
4. EMPLOYER _____
5. EMPLOYER'S ADDRESS _____
Street and No. City State Zip
6. Have you ceased or terminated all lobbying activities requiring registration? Yes _____ No _____

7. LIST BELOW (a) Names of persons, groups, or organizations which you are adding or eliminating; (b) the address of each such person, group, or organization listed; (c) the type of business each is engaged in or the purpose or function of the organization or group; (d) whether or not the client or someone else pays you to lobby; and (e) the date of termination if applicable. R.S. 24:53(C) REQUIRES THAT A VERIFICATION FORM BE SIGNED BY EACH PERSON YOU REPRESENT OR WHO EMPLOYS YOU. THOSE FORMS MUST MATCH THE NAMES ADDED BELOW.

1. Name _____
Address _____
Business or purpose _____

New Representation
Does this person pay you? _____
If No, who pays you? _____

Terminated Representation as of _____

Form 3A

SUPPLEMENTAL REGISTRATION FORM

Lobbyist's
Registration
Number _____

2. Name _____
Address _____
Business or purpose _____

New Representation
Does this person pay you? _____
If No, who pays you? _____

Terminated Representation as of _____

3. Name _____
Address _____
Business or purpose _____

New Representation
Does this person pay you? _____
If No, who pays you? _____

Terminated Representation as of _____

State of _____
Parish of _____

Before me, the undersigned authority, personally came and appeared _____, who, after being duly sworn by me, did declare and acknowledge to me that the above statements are true and correct.

Signature of Lobbyist _____
Sworn to and subscribed before me on this _____ day of _____, 19____.

Notary Public

**LOBBYING REGISTRATION
EMPLOYER
VERIFICATION FORM**

Lobbyist's
Registration
Number _____

**FOR OFFICE
USE ONLY**
Postmark
Date: _____

Instructions

- Print in ink or type.
- Complete form, have it notarized and return to Board of Ethics, 8401 United Plaza Boulevard., Suite 200 Baton Rouge, LA 70809-7017, (504) 922-1400.
- This form must be submitted within 10 days of lobbyist's registration, supplemental registration or renewal registration - A lobbyist's registration is NOT complete unless this form is submitted for each representation listed on the registration form, supplemental registration form or renewal registration.

State of _____

Parish of _____

I hereby verify that _____

is authorized to represent _____
Name of Employer, Person, Group or Organization Represented

before the Louisiana Legislature for the calendar year 199____.

Name of Authorizing Official (Type or print)

Signature of Authorizing Official

Title

Sworn to and subscribed before me on this _____ day of _____, 199____.

Notary Public (Type or print)

Signature of Notary Public

Rev. 6/96

**R. Gray Sexton
Executive Secretary**

9611#028

RULE

Board of Elementary and Secondary Education

Bulletin 1452—Dropout Definition

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education, repealed Board Policy 3.07.14 (stated below) relative to identifying students who enter adult education programs as transfers rather than dropouts, and authorized the Department of Education to follow the federal definition.

Repeal Rule 3.07.14: (stated below)

"Eligible students who desire to exit the K-12 program and transfer into adult education, with the permission of their parents and the authorization of the principal or counselor, will be considered as transfer students rather than dropouts." **Bulletin 1452. Handbook for Supervisors of Child Welfare and Attendance and School Social Welfare and Attendance**

The new Rule will amend Bulletin 1452 as stated below:

"A dropout is an individual who:

1. was enrolled in school at some time during the previous school year and was not enrolled on October 1 of the current school year; or
2. was not enrolled on October 1 of the previous school year although expected to be in membership (i.e., was not reported as a dropout the year before); and
3. has not graduated from high school or completed a state- or district-approved educational program; and
4. does not meet any of the following exclusionary conditions:
 - a. transfer to another public school, private school, or state- or district-approved education program;
 - b. temporary school-recognized absence due to suspension or school-approved illness; or
 - c. death.

For purposes of applying the dropout definition, the following additional definitions apply:

1. A school year is defined as the 12-month period of time beginning October 1 and ending September 30.
2. A school completer is an individual who has graduated from high school or completed a state or district-approved education program.
3. A state- or district-approved program is one that leads to receipt of formal recognition from school authorities. It may include special education programs, home-based instruction, and school-sponsored secondary (but not adult) programs leading to a GED or some other certification differing from the regular diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 22:1123 (November 1996).

**Mary Louise "Weegie" Peabody
Executive Director**

9611#041

RULE

Board of Elementary and Secondary Education

Teacher Certification Appeals Council (LAC 28:I.107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended the composition of the Teacher Certification Appeals Council to include a personnel director representative of the Personnel Directors' Association and a principal representative of the Principals' Association. This is a revision to the *Louisiana Administrative Code* as follows:

Title 28
EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter I. Organization

§107. Board Appeals Council

A. Teacher Certification Appeals Council

1. **Composition.** A Teacher Certification Appeals Council shall be appointed by the Board and shall consist of nine members, three of whom shall be representatives from the universities, one of whom shall be a representative of the Parish Superintendents' Association, one of whom shall be a representative of the Personnel Directors' Association, one of whom shall be a representative of the Principals' Association, and three of whom shall be classroom teachers. The classroom teachers shall consist of one representative each from the Louisiana Federation of Teachers, Louisiana Association of Educators, and the Associated Professional Educators of Louisiana. The Board will be responsible only for paying travel expenses of Council members at the state rate.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(D) and R.S. 17:6(A)(9).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 22:1124 (November 1996).

Weegie Peabody
Executive Director

9611#042

RULE

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

Chemical Accident Prevention Program
(LAC 33:III.Chapter 59) (AQ126F)

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 59 (AQ126F).

The former regulation defines, for a major stationary source ("A1" sources and "A2" sources in the Compliance Data System [CDS] maintained by the Air Quality Division of DEQ), the "threshold quantity" of a regulated substance that must be present at a facility for that facility to be subject to this Rule. Under the former Rule only registration is required. This Rule repeals the following Sections in their entirety: LAC 33:III.5905, 5909, 5915, 5917, 5919, 5921, 5923, 5925, 5927, 5929, 5931, 5933, 5935, 5937, 5939, 5941, 5943.

The Rule is identical to the federal Rule. It defines what regulated facilities must do to minimize the risks associated with that facility. The regulations for the three program levels vary in amount and complexity for compliance with the

program. The program levels are set up in such a way as to target those facilities that are most prone to accidents, as determined through research conducted by EPA. This action is required by R.S. 30:2054 and 30:2063.

This Rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

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ENVIRONMENTAL QUALITY

Part III. Air

Chapter 59. Chemical Accident Prevention Program

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the Department incorporates by reference 40 FR Part 68 (July 1, 1995), as amended in 61 FR 31668-31730 (June 20, 1996) and in 61 CFR 31730-31732 (June 20, 1996).

B. The volumes containing those federal regulations listed in Subsection A of this Section may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.

C. **Modifications or Exceptions.** The following modifications or exceptions are made to the incorporated federal standards:

1. In 40 CFR 68.3 Definitions:

a. *Act*—either the Clean Air Act as amended (42 U.S.C. 7401 et seq.) or the Louisiana Environmental Quality Act, Subtitle II of Title 30.

b. *Administrator* or *Regional Administrator*—the administrator of the United States Environmental Protection Agency or his authorized representative.

c. *Implementing Agency*—Louisiana Department of Environmental Quality.

2. United States Environmental Protection Agency, U.S. Environmental Protection Agency, or EPA shall mean United States Environmental Protection Agency, except that it shall mean Louisiana Department of Environmental Quality in 40 CFR 68.150(a), 68.190(a), and 68.190(c).

3. In 40 CFR 68.10(a)(2) and 40 CFR 68.190(b)(2), the requirement is modified to read, "Three years after the date on which a new regulated substance is first listed by EPA under 40 CFR 68.130, provided that the Department shall have adopted the addition of the new substance to 40 CFR 68.130 by three years after the date of the new EPA listing."

4. In 40 CFR 68.210, the availability of information to the public shall be ensured by the Louisiana Public Records Act, R.S. 44:1 et seq., except as otherwise declared confidential pursuant to R.S. 30:2030 and all regulations promulgated thereto including LAC 33:I.Chapter 5.

5. In 40 CFR 68.215, the air permitting authority shall refer to Louisiana Department of Environmental Quality permitting authority in LAC 33:III.Chapter 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 Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996).

§5903. Definitions

The terms in this Chapter are used as defined in LAC 33:III.111 except those terms specifically defined in an applicable Subchapter or defined herein as follows:

[Editor's Note: All definitions in this Section are hereby repealed, except for the definition of Major Stationary Source as it currently exists.]

Full-time Employee—2,000 hours per year of full-time equivalent employment. A source would calculate the number of full-time employees by totaling the hours worked during the calendar year by all employees, including contract employees, and dividing that total by 2,000 hours.

[See Prior Text]

Owner or Operator—any person who owns, leases, operates, controls, or supervises a stationary source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1125 (November 1996).

The following Sections are hereby repealed in their entirety: LAC 33:III.5905, 5909, 5915, 5917, 5919, 5921, 5923, 5925, 5927, 5929, 5931, 5933, 5935, 5937, 5939, 5941, 5943.

Gus Von Bodungen
Assistant Secretary

9611#040

RULE

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

**Chemical Accident Prevention Program
(LAC 33:III.Chapter 59) (AQ126L1)**

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 59 (AQ126L1).

This Rule clarifies the difference in registration schedules for stationary sources that have already registered with LDEQ and for those sources that have not yet registered but will be required to do so at a later date. L1 package is for clarification to the registration requirements.

This Rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 59. Chemical Accident Prevention Program

§5910. Registration Schedule

A. Major stationary sources, as defined in LAC 33:III.5903, shall comply with LAC 33:III.5911.

B. All stationary sources, including major stationary sources, that have a covered process shall comply with 40 CFR 68.160 on the date specified in 40 CFR 68.10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1125 (November 1996).

§5911. Registration for Major Stationary Sources

[See Prior Text in A-B.4]

5. the name, address and telephone number of a knowledgeable contact person or a person or position with the overall responsibility for the development, implementation, and integration of accident prevention program requirements; and

[See Prior Text In B.6]

C. If at any time after the submission of the registration, information in the registration is no longer accurate, the owner or operator shall submit an amended notice within 60 days to the administrative authority and the Department of Environmental Quality, Air Quality Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:426 (April 1994), amended LR 22:1125 (November 1996).

Gus Von Bodungen
Assistant Secretary

9611#039

RULE

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

**Chemical Accident Prevention Program
(LAC 33:III.Chapter 59) (AQ126L2)**

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 59 (AQ126L2).

The L2 Package adds nitrogen tetroxide to the existing list of toxics. It also creates a general duty section which includes a new list of chemicals which the facilities will have to consider. Facilities will only have to address this new list of chemicals with requirements within this general duty Section and not with the whole Rule. The facilities will have the option to address any chemicals they have on the new list, in accordance with the whole Rule.

This Rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 59. Chemical Accident Prevention Program
§5907. General Duty**

The owners and operators of stationary sources producing, processing, handling, or storing substances listed in 40 CFR 68.130, Table 59.0 of this Section, or Table 59.1 of LAC 33:III.5913 in quantities greater than the threshold quantities listed in those respective places (as determined in the manner described in 40 CFR 68.115), have a general duty in the same manner and to the same extent as Section 654 of Title 29 of the United States Code (Occupational Safety and Health Act) to identify hazards that may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility, and to minimize the off-site consequences of accidental releases of such substances that do occur. For the purposes of this Section the provisions of R.S. 30:2026 (Citizen Suits) shall not be available to any person or otherwise be construed to be applicable to this Section. Nothing in this Section shall be interpreted, construed, implied, or applied to create any liability or basis for suit for compensation for bodily injury or any other injury or property damages to any person that may result from accidental releases of such substances.

7790-91-2	Chlorine trifluoride	1000
97-00-7	Chloro-2,4-dinitrobenzene (1-)	5000
96-10-6	Chlorodiethylaluminum	5000
76-06-2	Chloropicrin	500
None	Chloropicrin and methyl bromide mixture	1500
None	Chloropicrin and methyl chloride mixture	1500
80-15-9	Cumene hydroperoxide	5000
675-14-9	Cyanuric fluoride	100
110-22-5	Diacetyl peroxide (Conc>70 percent)	5000
334-88-3	Diazomethane	500
94-36-0	Dibenzoyl peroxide	7500
110-05-4	Dibutyl peroxide (tertiary)	5000
7572-29-4	Dichloro acetylene	250
557-20-0	Diethylzinc	10000
105-64-6	Diisopropyl peroxydicarbonate	7500
105-74-8	Dilauroyl peroxide	7500
97-02-9	Dinitroaniline (2,4-)	5000
1338-23-4	Ethyl methyl ketone peroxide (Conc>60 percent)	5000
371-62-0	Ethylene fluorohydrin	100
684-16-2	Hexafluoroacetone	5000
10035-10-6	Hydrogen bromide	5000
7722-84-1	Hydrogen peroxide (conc>=52 percent by weight)	7500
7803-49-8	Hydroxylamine	2500
463-51-4	Ketene	100
78-85-3	Methacrylaldehyde	1000
920-46-7	Methacryloyl chloride	150
30674-80-7	Methacryloyloxyethyl isocyanate	100
74-83-9	Methyl bromide	2500
453-18-9	Methyl fluoroacetate	100
421-20-5	Methyl fluorosulfate	100
74-88-4	Methyl iodide	7500

Table 59.0 Supplemental List of Regulated Substances and Their Threshold Quantities for Accidental Release Prevention		
CAS Number	Chemical Name	Threshold Planning Quantity (pounds)
Varies	Alkylaluminums	5000
107-05-1	Allyl chloride	1000
7790-98-9	Ammonium perchlorate	7500
7787-36-2	Ammonium permanganate	7500
13863-41-7	Bromine chloride	1500
7789-30-2	Bromine pentafluoride	2500
7787-71-5	Bromine trifluoride	15000
106-96-7	Bromopropyne (3-) (Propargyl bromide)	100
75-91-2	Butyl hydroperoxide (tertiary)	5000
614-45-9	Butyl perbenzoate (tertiary)	7500
353-50-4	Carbonyl fluoride	2500
9004-70-0	Cellulose nitrate (Conc>12.6 percent nitrogen)	2500
13637-63-3	Chlorine pentafluoride	1000

79-84-4	Methyl vinyl ketone	100
100-01-6	Nitroaniline(p-)	5000
7783-54-2	Nitrogen trifluoride	5000
10544-73-7	Nitrogen trioxide	250
75-52-5	Nitromethane	2500
20816-12-0	Osmium tetroxide	100
7783-41-7	Oxygen difluoride	100
19624-22-7	Pentaborane	100
7601-90-3	Perchloric acid (Conc>60 percent by weight)	5000
7616-94-6	Perchloryl fluoride	5000
627-13-4	Propyl nitrate	2500
107-44-8	Sarin	100
7783-79-1	Selenium hexafluoride	1000
7803-52-3	Stibine (Antimony hydride)	500
5714-22-7	Sulfur pentafluoride	250
7783-80-4	Tellurium hexafluoride	250
10036-47-2	Tetrafluorohydrazine	5000
7719-09-7	Thionyl chloride	250
1558-25-4	Trichloro (chloromethyl)silane	100
27137-85-5	Trichloro (dichlorophenyl)silane	2500
2487-90-3	Trimethoxysilane	1500

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1126 (November 1996).

§5913. Supplementary List of Regulated Substances

All the requirements of this Chapter for regulated substances listed in 40 CFR 68.130 shall also apply to the supplementary list of chemicals in Table 59.1 of this Section present at stationary sources in more than the threshold quantities listed in Table 59.1 of this Section. If a new substance is added to Table 59.1, an owner or operator of a stationary source that has more than a threshold quantity of that substance shall comply with all the requirements of this Chapter for regulated substances listed in 40 CFR 68.130 no later than three years after the date the substance is first listed in Table 59.1.

Table 59.1 Supplementary List of Regulated Toxic Substances and Their Threshold Quantities for Accidental Release Prevention (Alphabetical Order)		
CAS Number	Chemical Name	Threshold Planning Quantity (pounds)
10544-72-6	Nitrogen Tetroxide	250

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1127 (November 1996).

Gus Von Bodungen
Assistant Secretary

9611#038

RULE

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

Crematories (LAC 33:III.2531) (AQ142)

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.2531 (AQ142).

The changes remove the thickness requirement under the definition of appropriate containers and remove Section K.1, which requires a visual emissions test once every five years. These changes will have a negligible environmental impact while reducing the financial burden on the regulated community.

This Rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 25. Miscellaneous Incineration Rules

Subchapter D. Crematories

§2531. Standards of Performance for Crematories

[See Prior Text in A]

B. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined below as follows:

Appropriate Containers—plastic bags used as containers for animal remains shall be nonchlorinated. Any other container shall be made of materials containing less than 0.5

percent chlorine by weight as demonstrated by the manufacturer's data sheet.

* * *

[See Prior Text in B. Crematory - K]

1. All crematories with a design charge rate greater than 500 pounds per hour shall conduct emissions testing within 180 days of initial start-up to verify compliance with Subsections E.1-2 and F.1 of this Section using the following test methods:

a. LAC 33:III.6015 (Method 5—Determination of Particulate Emissions from Stationary Sources);
b. 40 CFR 60 (Method 10—Determination of Carbon Monoxide Emissions from Stationary Sources);
c. LAC 33:III.6047 (Method 9—Visual Determination of the Opacity of Emissions from Stationary Sources); and

d. other tests which may be added at pretest meetings.

2. The owner/operator shall provide the Department at least 30 days prior notice of any emission test to afford the Department the opportunity to conduct a pretest conference and to have an observer present. The Department has the authority to invalidate any testing where such notice is not provided.

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 20:1107 (October 1994), amended LR 22:1127 (November 1996).

Gus Von Bodungen
Assistant Secretary

9611#037

RULE

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

Fugitive Emissions (LAC 33:III.2121 and 2122) (AQ138)

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.2121 and 2122 (AQ138).

This Rule changes the reporting frequency from quarterly to semi-annually, to be more consistent with federal regulations. The applicable parishes for LAC 33:III.2122 are named so that parishes currently subject to the Rule will not be exempted when their attainment status changes. This Rule changes the requirement for a component which appears to be leaking on the basis of sight, sound, or smell. Instead of being repaired immediately, the component may be monitored first. If it is emitting below the leak limit, the component need not be repaired. Other changes to the regulation provide consistency and clarity.

This Rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding

environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

§2121. Fugitive Emission Control

* * *

[See Prior Text in A-B]

1. No component shall be allowed to leak organic compounds exceeding 10,000 parts per million by volume (ppmv), as defined in LAC 33:III.111, when tested by Method 21 "Determination of Volatile Organic Compound Leaks" in the Division's Source Test Manual (LAC 33:III.6077). Any regulated component leaking in excess of 10,000 ppmv must be repaired according to Subsection B.3 of this Section. This includes flange and connection leaks found per Subsection C.3.b of this Section, pump and compressor seal leaks found during the weekly visual inspections, and any other regulated component found leaking.

* * *

[See Prior Text in B.2-C.2.b.iii]

3. Facilities listed in Subsection C.1 and 2 of this Section:

* * *

[See Prior Text in C.3.a]

b. Monitor immediately with a leak detection device any component that appears to be leaking on the basis of sight, smell, or sound. This includes flanges and connectors, pump and compressor seals observed during the weekly visual inspections, and any other regulated components that appear to be leaking. In lieu of monitoring, the operator may elect to implement actions as specified in Subsection B.3 of this Section.

* * *

[See Prior Text in C.4-E.3]

F. Reporting Requirements. The operator of the affected facility shall submit a report semiannually containing the information below for each calendar quarter during the reporting period. The reports are due by the last day of the month (January and July) following the monitoring period or by a date approved by the Department. The reports shall include the following information for each quarter of the reporting period:

1. the number of items checked versus the number found leaking, and a calculation of the percent of components leaking, as defined in Subsection D.1.e of this Section;

2. a listing of all leaks that were identified, but not repaired, within the 15-day limit, including the following information:

- a. the name of the unit where the leaking component is located and the date of last unit shutdown;
 - b. the name of the leaking component;
 - c. the stream identification at the leak;
 - d. the date the leak was located;
 - e. the date maintenance was attempted;
 - f. the date the leak will be repaired; and
 - g. the reason repairs failed or were postponed;
3. the list of items awaiting turnaround for repair; and

4. a signed statement attesting to the fact that all other monitoring has been performed as required by the regulations.

[See Prior Text in G-G.Liquid Service]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:654 (July 1991), LR 21:1330 (December 1995), LR 22:1128 (November 1996).

§2122. Fugitive Emission Control for Specified Parishes

[See Prior Text in A-A.4]

5. This Section is applicable to sources in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge.

[See Prior Text in A.6-A.6.d]

B. Definitions. Terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined below as follows:

[See Prior Text]

Inaccessible Valve—a valve that cannot be monitored without elevating the monitoring personnel more than two meters above a support surface.

[See Prior Text in B.In Vacuum Service-C.1]

a. No component in petroleum refineries, SOCM, MTBE, and polymer manufacturing industry shall be allowed to leak volatile organic compounds exceeding an instrument reading of 1,000 ppmv or greater for valves, connectors, pressure relief devices, and process drains; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators, as outlined in Subsection D of this Section, when tested by LAC 33:III.6077 (Method 21).

b. No component in natural gas processing plants shall be allowed to leak volatile organic compounds exceeding an instrument reading of 2,500 ppmv for valves, connectors, pressure relief devices, and process drains; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators, as outlined in Subsection D of this Section, when tested by LAC 33:III.6077 (Method 21).

c. Any regulated component observed leaking by sight, sound, or smell, except those covered under Subsection C.1.d of this Section, must be repaired according to Subsection C.3 of this Section, regardless of the leak's concentration. This includes flange and connection leaks found per Subsection D.3.b of this Section, pump and compressor seal leaks found during the weekly visual inspections, and any other regulated component found leaking. This does not include valves or pumps in heavy liquid service.

d. Any pump or valve in heavy liquid service observed leaking by sight, sound, or smell shall be monitored within five days by the method specified in LAC 33:III.6077 (Method 21). If the pump or valve is determined to be leaking in excess of the applicable limits given in this Subsection, it shall be repaired according to Subsection C.3 of this Section.

[See Prior Text in C.2-D.1]

a. Monitor process drains with a leak detection device one time per year (annually).

[See Prior Text in D.1.b-D.1.c]

d. Inspect weekly, by visual, audible, and olfactory means, all flanges.

[See Prior Text in D.1.e-D.3.a]

b. Monitor immediately with a leak detection device any component that appears to be leaking on the basis of sight, smell, or sound. This includes flanges and connectors, pump and compressor seals observed during the weekly visual inspections, and any other regulated components that appear to be leaking. In lieu of monitoring, the operator may elect to implement actions as specified in Subsection C.3 of this Section.

[See Prior Text in D.3.c]

d. Unsafe-to-monitor valves shall be monitored when conditions would allow these valves to be monitored safely (e.g., during shutdown).

[See Prior Text in D.4-D.4.j]

k. components that have been placed on a shutdown list for repairs are exempt from further monitoring until a repair has been attempted; and

l. check valves.

[See Prior Text in D.5-F.3]

G. Reporting Requirements. The operator of the affected facility shall submit a report semiannually containing the information below for each calendar quarter during the reporting period. The reports are due by the last day of the month (January and July) following the monitoring period or by a date approved by the Department. The reports shall include the following information for each quarter of the reporting period:

1. the number of items checked versus the number found leaking;

2. the percent of components leaking for the test period, as defined in Subsection C.4 of this Section;

3. the total percent of leakers, as defined in Subsection C.5 of this Section;

4. a listing of all leaks that were identified, but not repaired, within the 15-day limit, including the following information:

a. the name of the unit where the leaking component is located and the date of last unit shutdown;

b. the name of the leaking component;

c. the stream identification at the leak;

d. the date the leak was located;

e. the date maintenance was attempted;

f. the date the leak will be repaired if the component is awaiting a shutdown; and

g. the reason repairs failed or were postponed;

5. the list of items awaiting turnaround for repair; and

6. a signed statement attesting to the fact that all other monitoring has been performed as required by the regulations.

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 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996).

Gustave Von Bodungen
Assistant Secretary

9611#053

RULE

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division**

Waste Minimization Plan (LAC 33:V.2245)(HW056)

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 Hazardous Waste Division regulations, LAC 33:V.2245 (HW056).

This Rule removes the requirement for small quantity generators to develop and maintain a waste minimization plan onsite. Requests were made to the Department to remove the waste minimization plan requirement for small quantity generators. The Department reviewed the Rule and determined that this requirement places an unnecessary burden on small quantity generators.

This Rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

**Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—
Hazardous Waste**

**Chapter 22. Prohibitions on Land Disposal
Subchapter A. Land Disposal Restrictions**

**§2245. Generators' Waste Analysis, Recordkeeping,
and Notice Requirements**

[See Prior Text in A-J]

K. All large quantity generators shall develop and retain a waste-minimization plan on site. The plan shall be submitted to the administrative authority within 30 days of receipt of a request by the administrative authority. The plan shall include ongoing and proposed waste-minimization projects and tentative beginning dates for proposed projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:1130 (November 1996).

Mike Strong
Assistant Secretary

9611#052

RULE

**Department of Environmental Quality
Office of Water Resources**

**Numerical Criteria for the Ouachita River
(LAC 33:IX.1123)(WP019)**

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 Water Quality Management Division regulations, LAC 33:IX.1123 (WP019).

Numerical criteria for dissolved oxygen (DO) has been evaluated for the portion of the Ouachita River from the Arkansas-Louisiana state line to Columbia Lock and Dam. A Use Attainability Analyses (UAA) was conducted on portions of the water body in order to assess past and current chemical, physical, and biological conditions. This Rule modifies the standards so that appropriate seasonal DO criteria, as determined by the UAA, are applied.

Federal law requires that the state meets the goals of the Clean Water Act. The federal water quality standards regulation (40 CFR) 131.10 requires the states to "specify appropriate water uses to be achieved and protected."

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

**Chapter 11. Surface Water Quality Standards
§1123. Numerical Criteria and Designated Uses**

[See Prior Text in A - C.2]

3. Designated Uses. The following are the category definitions of designated uses that are used in Table 3 under the subheading "DESIGNATED USES."

- A - Primary Contact Recreation
- B - Secondary Contact Recreation
- C - Propagation of Fish and Wildlife
- L - Limited Aquatic Life and Wildlife Use
- D - Drinking Water Supply
- E - Oyster Propagation
- F - Agriculture
- G - Outstanding Natural Resource Waters

Numbers in brackets (e.g., [1]) refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses

Code	Stream Description	Designated Uses	CL	SO ₄	DO	pH	B A C	°C	TDS
	Atchafalaya River Basin (01)								
* * * [See Prior Text in 010101 - 070601]									
	Ouachita River Basin (08)								
080101	Ouachita River - Arkansas State Line to Columbia Lock and Dam	A B C D	160	35	[15]	6.0 - 8.5	1	33	350
* * * [See Prior Text in 080102 - 120806]									

ENDNOTES:

* * *

[See Prior Text in [1] through [14]]

[15] Site-specific Seasonal DO Criteria: 3 mg/l June and July, 4.5 mg/l August, 5 mg/l September through May. These seasonal criteria may be unattainable during or following naturally occurring high flow (when the gage at the Felsenthal Dam exceeds 65 feet and also for the two weeks following the recession of flood waters below 65 feet), which may occur from May through August. Naturally occurring conditions that fail to meet criteria should not be interpreted as violations of the criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996).

Gus Von Bodungen
Assistant Secretary

9611#051

RULE

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

Continuing Education Sponsors (LAC 46:LXIII.805)

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

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 8. Continuing Education

§805. Acceptable Sponsorship

A. - D. ...

E. Activities (including home study courses) offered by the APA (American Psychological Association.)

F. Activities sponsored by the Board of Examiners of Psychologists.

G. Activities sponsored by the Louisiana Office of Citizens with Developmental Disabilities or the Louisiana Office of Mental Health, and approved by the chief psychologist of the sponsoring state office.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 22:1131 (November 1996).

John E. Mendoza, Ph.D.
Chairman

9611#044

RULE

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

Orleans Parish Individual Sewage

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary of the Department of Health and Hospitals has adopted the following Rule governing the installation of individual sewage systems in certain areas of Orleans Parish.

Funds in the amount of \$12,500,000 from the federal and state governments as well as the New Orleans Sewerage and Water Board have been committed for the design and construction of a community sewage system for the following areas in Orleans Parish:

property between Chef Pass and the Rigolets, outside the hurricane protection levee; and

property on the Lake Pontchartrain side of the L&M Railroad tracks that parallel Hayne Boulevard, outside the hurricane protection levee; and

property on either side of U.S. Highway 11 between Powers Junction and Interstate 10, commonly referred to as Irish Bayou.

This Rule is necessary to prohibit the increase of individual sewage disposal systems in organized, subdivision type camp developments for individual camps/dwellings which shall be provided with community type sewage disposal facilities. To continue to allow the installation of individual sewage treatment and disposal systems would only jeopardize continuation of funding for this much needed public health project as many of the existing systems are inadequate and are contributing to the pollution of the Lake Pontchartrain Basin.

Rule

The Department of Health and Hospitals, Office of Public Health prohibits the installation of individual sewage systems in the following areas of Orleans Parish:

1) property between the Chef Pass and the Rigolets, outside the hurricane protection levee; and

2) property on the Lake Pontchartrain side of the L&M Railroad tracks that parallel Hayne Boulevard outside the hurricane protection levee; and

3) property on either side of US Highway 11 between Powers Junction and Interstate 10, commonly referred to as Irish Bayou.

Bobby P. Jindal
Secretary

9611#067

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Bottled Water for Emergencies (Chapter VI)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health hereby amends rules pertaining to the processing and bottling of drinking water for limited use under emergency circumstances by those institutions and facilities that require a source of potable drinking water.

This measure amends certain sections of Chapter VI, Part 5 of the state Sanitary Code which governs the processing and bottling of bottled water. This Rule stems from requests by hospitals and nursing homes made to certain food processing plants to process and package bottled drinking water for their use as a source of potable drinking water for patients and residents of those facilities. These amendments to the Sanitary Code will provide guidance and set uniform rules for processing of drinking water strictly for use under emergency situations which may occur.

Chapter VI. Manufacturing, Processing, Packing and Holding of Food, Drug and Cosmetics Part 5. Processing and Bottling Drinking Water

6:132 Definitions:

Bottled Water—water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents. Fluoride may be optionally added within the limitations established in 21 CFR §165.110(b)(4)(ii). Bottled water may be used as an ingredient in beverages (e.g., diluted juices, flavored bottled waters). It does not include those food ingredients that are declared in ingredient labeling as "water," "carbonated water," "disinfected water," "filtered water," "seltzer water," "soda water," "sparkling water," and "tonic water." The processing and bottling of bottled water shall comply with regulations specified in this part of this Chapter.

6:132-2 Bottled Water for Emergencies. Bottled water processed and packaged strictly for the purpose of providing

a source of potable drinking water in anticipation of, or during, an emergency such as the aftermath of disasters from severe storms, hurricanes, floods, etc., shall comply with the provisions of this part of this Chapter unless otherwise specified.

6:132-3 Bottled Water for Emergencies from Outside of State. Bottlers, processors, distributors, or dealers of bottled water processed and packaged outside of this state strictly for the purpose of providing a source of potable drinking water in anticipation of, or during, an emergency such as the aftermath of disasters from severe storms, hurricanes, floods, etc., shall show evidence to the state health officer, or his/her duly authorized representative, of compliance with the requirements for processing, packing, and distribution of bottled water in that state, county, or local authority having jurisdiction.

6:137-1(B) Treatment of Product Water for Emergencies. Product water intended for bottling for use during emergencies shall contain a minimum of 0.2 ppm free chlorine residual prior to bottling or, shall be treated as specified in §6:137-1 of this part.

6:137-2 (3) Bottled water that is processed and packaged exclusively for emergency use shall include the following labeling information in addition to any other required labeling information:

a) Bottled water for emergencies may be named "Bottled Water" or "Drinking Water" followed immediately by "for Emergency Use Only, Not for Re-Sale."

b) Each unit container shall include a "Use by (date)" with the date not to exceed 60 days from the date of bottling.

c) The information required in §6:137-2(3) (a)-(b) shall be of the same print size and style.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:941(C), R.S. 40:2, and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:220 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health LR 22:1132 (November 1996).

Bobby P. Jindal
Secretary

9611#061

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Molluscan Shell Stock (Chapter IX)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary of the Department of Health and Hospitals has adopted the following Rule governing the harvesting and refrigeration of molluscan shellfish.

Chapter IX. Seafood

* * *

9:052 Refrigeration of Shell-stock Oysters, Clams and Mussels

Shell-stock shall be placed under mechanical refrigeration at an air temperature (measured 12 inches from the blower) not to exceed 45° F within the time periods prescribed herein; and shall be maintained at or below that temperature throughout all levels of commerce. Shell-stock harvested for raw consumption and/or for shucking by a certified dealer during the months November through March shall be subject to the following time to refrigeration requirements:

A. NOVEMBER—Shell-stock shall be refrigerated within 24 hours from the time harvesting begins.

B. DECEMBER through MARCH—Shell-stock shall be refrigerated within 36 hours from the time harvesting begins.

9:052-1 Refrigeration Requirements for Shell-stock Harvested for Raw Consumption During the Months April Through October

Time to refrigeration requirements for shell-stock harvested for raw consumption during the months April through October shall be based on the average monthly growing water temperatures as calculated and announced by the Office of Public Health Molluscan Shellfish Program according to the following schedule:

A. Water Temperature: 65° F to 74° F—Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45° F within 14 hours from the time harvesting begins.

B. Water Temperature: >74° F to 84° F—Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45° F within 12 hours from the time harvesting begins.

C. Water Temperature: > 84° F—Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45° F within 6 hours from the time harvesting begins.

A Harvester-Dealer Time/Temperature Log Sheet (see Table I) shall be completed by both the harvester and first certified dealer to document compliance with time to refrigeration requirements during the April through October time period. Log sheets shall be maintained for a period of one year and made readily available for inspection by agents of the Department of Health and Hospitals, Department of Wildlife and Fisheries and the U.S. Food and Drug Administration. Log sheets for the current and previous 15 days harvest shall be kept aboard the harvest vessel for immediate examination.

9:052-2 Refrigeration Requirements for Shell-stock Harvested for Shucking by a Certified Dealer During the Months April Through October

Time to refrigeration requirements for shell-stock harvested for shucking by a certified dealer during the months April through October shall be as follows:

A. All shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45° F no later than 12 Midnight each day.

B. A Harvester-Dealer Time/Temperature Log Sheet (see Table I) shall be completed by both the harvester and first certified dealer to document compliance with time to refrigeration requirements during the April through October time period. Log sheets shall be maintained for a period of one year and made readily available for inspection by agents of the Department of Health and Hospitals, Department of Wildlife and Fisheries and the U.S. Food and Drug Administration. Log sheets for the current and previous 15 days harvest shall be kept aboard the harvest vessel for immediate examination.

C. Dealer/harvester tags utilized to identify shell-stock harvested for shucking by a certified dealer shall be stamped with the following wording in "neon green" letters:

"FOR SHUCKING BY A CERTIFIED DEALER."

9:052-3 General Provisions

A. Shell-stock harvested for delivery to a steam factory for canning and thermal processing shall be landed at the factory within 72 hours from the time harvesting begins. The time harvesting begins and the time of arrival at the factory shall be recorded on the harvester's invoice.

B. If a harvester elects to fish both shell-stock intended for raw consumption and for shucking by a certified dealer on the same day, it shall be his responsibility to properly separate and identify the two types of shell-stock.

C. Except for deliveries made to a shellfish dealer certified by the Office of Public Health for inclusion on the U.S. Food and Drug Administration's Interstate Shellfish Shippers List and located less than 30 minutes from dockside, all land based deliveries of shell-stock shall be made aboard mechanically refrigerated trucks with an internal air temperature of 45° F or less as measured 12 inches from the blower. For shipments by air, an internal meat temperature of 45° F or less shall be maintained at all times. To accomplish this it shall be necessary to pre-chill shell-stock to an internal temperature of 40° F or less prior to being packed into insulated boxes with frozen gel packs.

D. When shell-stock are temporarily off-loaded for any reason, storage must be on pallets or on a well graded paved surface, with direct exposure to the sun limited to no more than 30 minutes.

E. Alternate designs for the Harvester-Dealer Time/Temperature Log Sheet as depicted in Table I may be submitted for consideration and approval to the Office of Public Health.

9:052-4 Penalties

Shell-stock not produced in accordance with the requirements outlined in 9:052 through 9:052-3 shall be deemed adulterated and shall be subject to seizure and destruction.

**TABLE I
HARVESTER-DEALER TIME/TEMPERATURE
LOG SHEET**

Harvester Information:

BOAT NAME/NUMBER: _____
 HARVESTER NAME/ LICENSE NUMBER: _____
 HARVESTER SIGNATURE DATE: _____

Molluscan shellfish harvested for other than raw (half shell) consumption:

HARVESTING AREA/LEASE NUMBER: _____
 PRODUCT INTENDED FOR OTHER THAN RAW CONSUMPTION: _____

Circle one:

BEDDING SHUCKING RELAYING OTHER (EXPLAIN)

TIME HARVESTING BEGINS: _____
 TIME HARVESTING ENDS: _____
 NUMBER OF SACKS OF OYSTERS HARVESTED: _____

Molluscan shellfish harvested for raw (half shell) consumption:

HARVESTING AREA/LEASE NUMBER: _____
 TIME HARVESTING BEGINS: _____
 NUMBER OF SACKS OF OYSTERS HARVESTED: _____

Certified Dealer Information:

TEMPERATURE OF COOLER WHEN UNLOADING OYSTERS BEGINS: _____
 TIME WHEN LAST OYSTERS FROM BOAT ARE PLACED IN COOLER: _____
 TEMPERATURE OF COOLER WHEN LAST OYSTERS FROM THE BOAT ARE PLACED IN COOLER: _____
 ORIGINAL CERTIFIED DEALER SIGNATURE _____

 (OR AUTHORIZED REPRESENTATIVE)

DATE: _____

* * *

Bobby T. Jindal
 Secretary

9611#068

RULE

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

**Medicaid Pharmacy Benefits Management System
 Point-of-Sale—Prospective Drug Utilization Program**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is adopting the following Rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act, Section 1927(g) and (h) 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."

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the Louisiana Medicaid Pharmacy Benefits Management System (LMPBM) which includes a Point-of-Sale/Prospective Drug Utilization Review component. The Department reserves the right for ultimate decision making relative to certain drug class information and drug contraindications or interactions.

The LMPBM Program integrates the following administrative components of the Medicaid Pharmacy Program.

1. **Formulary Management.** The formulary is managed through the use of the Federal Upper Limits (FUL) and the Louisiana Maximum Allowable Costs (LMAC) limitations. Federal Upper Limits and Louisiana Maximum Allowable Costs limitations provide for dispensing of multiple source drugs at established limitations unless the prescribing physician specifies that the brand product is medically necessary for a patient. Establishment of co-payments also provides for formulary management. The Medicaid Program has established a broad formulary with limited exceptions.

2. **Reimbursement Management.** The cost of pharmaceutical care is managed through Estimated Acquisition Costs (EAC) of drug ingredient costs through Average Wholesale Price (AWP) discounting, the Louisiana Maximum Allowable Costs (LMAC) limitations and compliance with Federal Upper Limits (FUL) regulations, and the establishment of the maximum allowable overhead costs, drug rebates and co-payments.

3. **Claims Management.** The claims management component is performed through the processing of pharmacy claims against established edits. Claim edit patterns and operational reports are analyzed to review the effectiveness of established edits and to identify those areas where the development of additional edits are needed.

4. **Program Integrity.** Program Integrity is maintained through the following mechanisms: Retrospective Drug Utilization Review, Lock-In Program for patient education, Surveillance and Utilization Review Program which provides for on-going review processes for misutilization, abuse and fraud, and audits of the providers of the Pharmacy Program.

5. **Pharmacy Provider Network.** Enrolled Medicaid pharmacy providers are required to comply with all applicable federal and state laws and regulations.

6. **The Point-of-Sale Prospective Drug Utilization Review System.** This on-line Point-of-Sale System provides electronic claims management to evaluate and improve drug utilization quality. Information about the patient and the drug will be analyzed through the use of eight therapeutic modules in accordance with the standards of the National Council of Prescription Drug Plan. The purpose of Prospective Drug Utilization Review is to reduce in duplication of drug therapy, prevent drug to drug interactions, and assure appropriate drug use, dosage and duration. The PRO-DUR modules may screen for drug interactions, therapeutic duplication, improper duration of therapy, incorrect dosages, clinical abuse/misuse

and age restrictions. Electronic claims submission sends on-line messages to pharmacists informing them of potential drug-related problems and the pharmacists must document their responses by using interventions codes. By using these codes pharmacists will document prescription reporting and outcomes of therapy for Medicaid recipients.

A. POS/PRS-DUR Requirements Provider Participation

1. A point-of-sale enrollment amendment and certification is required prior to billing POS/PRO-DUR system. Annual recertification is required.

2. All Medicaid enrolled pharmacy providers will be required to participate in the Pharmacy Benefits Management System.

3. All Medicaid enrolled pharmacy providers whose claim volume exceeds 100 claims or \$4,000 per month and all providers enrolled on January 1, 1996 will be required to participate in Point-of-Sale System. Long Term Care pharmacy provider claims may be processed through Electronic Media Claims (EMC).

4. Providers accessing the POS/PRO-DUR system will be responsible for the purchase of all hardware for connection to the switching companies and any fees associated with connection or transmission of information to the fiscal intermediary. The Bureau of Health Services Financing will not reimburse the provider for any initial on-going fees incurred by the provider to access the POS/PRO-DUR system.

5. Providers are required to verify eligibility with the monthly eligibility card and a copy of the card should be retained for processing the claim.

6. Pharmacy providers and physicians may obtain assistance with clinical questions from the Northeast Louisiana University, School of Pharmacy.

7. Physicians and pharmacy providers will be required to participate in the educational and intervention features of the Pharmacy Benefits Management System.

B. Recipient Participation. Pharmacy patients are encouraged to take an active role in the treatment or management of their health conditions through participation in patient counseling efforts with their physicians and pharmacists.

C. Disease and Outcomes Management. Disease management will be focused on improving the drug therapy for certain disease states by developing procedures to assure direct interventions and increasing compliance of patients. Patient populations will be targeted for disease therapy monitoring and educational efforts.

D. Peer Counseling and Conference Management. The Department will analyze data for individual prescribers and pharmacists. Quality management strategies will be used for peer counseling and conferences with prescribers and/or pharmacists to assure appropriate prescribing and dispensing.

Bobby P. Jindal
Secretary

9611#059

RULE

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

**Minimum Standards for Licensing Home Health Agencies
(LAC 48:I.Chapter 91)**

The Department of Health and Hospitals, has amended the following Rule as authorized by R.S. 40:2009.31-40. This Rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 91. Minimum Standards for Home Health Agencies

§9165. Definitions

* * *

Change of Ownership (CHOW)—the sale or transfer of all or a portion of the assets or other equity interest in a home health agency. Examples of actions which constitute a change of ownership with respect to a home health agency include:

1. Unincorporated Sole Proprietorship. Transfer of title and property to another party constitutes change of ownership.

2. Corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute change of ownership.

3. Limited Liability Company. The removal, addition or substitution of a member in a limited liability company constitutes a change of ownership.

4. Partnership. In the case of a partnership, the removal, addition, or substitution, of a partner, unless the partners expressly agree otherwise, as permitted by applicable state law, constitutes a change of ownership.

* * *

Controlling Ownership or Controlling Interest—an equity or voting interest possessed by a person or entity that:

1. has a direct or indirect equity interest, equal to 5 percent or more, in the capital, the stock, or the profits of a home health agency; or

2. is an officer or director of a home health agency which is organized as a corporation; or

3. is a partner in a home health agency which is organized as a partnership; or

4. is a member or manager of a home health agency which is organized as a limited liability company.

The term *controlling ownership* is synonymous with the terms *controlling interest* or *control interest* as defined by the Health Care Financing Administration (HCFA) of the Federal Department of Health and Human Services (DHHS).

* * *

Home Health Agency Premises—the physical site where the home health agency maintains staff to perform administrative functions, and maintains its personnel records, or maintains its client service records, or holds itself out to the public as being a location for receipt of client referrals. The home health agency shall be a separate entity from any other entity or business or trade. If office space is shared with another health related entity the home health agency must operate separate and apart. The home health agency may not share office space with a non-health-related entity.

Home Health Aide Services—semi-skilled assistance by qualified personnel with activities of daily living provided to the patient who requires assistance in at least two areas of functioning and monitoring of vital signs, reporting to a professional under a written plan of care, and requiring clinical note for each patient visit.

Jurisdiction—all home health agencies shall be under the jurisdiction of the Department of Health and Hospitals, which shall provide the rules and regulations governing the operation of such agencies or organizations. However, nothing in this Part shall be construed to prohibit the delivery of personal care, homemaker, respite, and other in-home services by a person or entity not licensed under this Rule unless provided with other home health services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 22:1135 (November 1996).

§9167. Personnel Qualifications/Responsibilities

A. *Administrator*—a person who is designated in writing and is administratively responsible and available for all aspects of facility operations. The administrator shall be appointed by, and shall answer directly to the governing body of the agency. The administrator and the director of nursing or the alternate director of nursing may be the same individual if dually qualified. If an administrator is designated for more than one agency then the administrator must designate an alternate that must be a full-time, on-site employee of only one agency who meets the qualifications of the administrator.

Note: Director of Nurses may never serve more than one agency.

1. Qualifications:

a. licensed physician, registered nurse, or college graduate with bachelor's degree who has three years of documented management experience in health care delivery service; or

b. a person who is not a registered nurse or who does not have a bachelor's degree may qualify by having three additional years of documented management experience in a health care delivery service.

2. Responsibilities. The administrator shall:

a. be available in person or by telecommunication at all times for all aspects of facility operation;

b. designate in writing an individual who meets administrator qualifications to assume the authority and the control of the agency if the administrator is unavailable;

- c. direct the operations of the agency;
- d. be responsible for compliance with all regulations, laws, policies and procedures applicable to home health and Medicare (when applicable) issues;
- e. employ qualified individuals and ensure adequate staff education and evaluations;
- f. ensure the accuracy of public information materials and activities;
- g. act as liaison between staff, the group of professional personnel, and the governing board;
- h. implement an ongoing accurate and effective budgeting and accounting system.

[Editorial Note: Section 9167.B regarding qualifications for alternate administrators has been proposed for deletion. Subsequent subsections have been recodified to reflect this change.]

B. *Advisory Board*—group of persons who meet with agency staff/owners as frequently as needed or as required below, but at least once every year, to evaluate the overall functions of the agency.

D. *Director of Nurses*—person designated in writing to supervise all aspects of patient care, all activities of professional staff and allied health personnel, and shall be responsible for compliance with regulatory requirements. The director of nurses must be a full-time, salaried employee of only one agency.

1. Qualifications. A registered nurse currently licensed to practice in the state of Louisiana with at least three years experience as a registered nurse. One of these years must consist of full-time experience in providing direct patient care in the home health setting.

E. *Alternate Director of Nurses* must have same qualifications, be designated in writing, and function in the capacity of director of nurses whenever the director of nurses is not on-site. At a minimum, the alternate director of nurses must be employed by the agency for no less than three days per week for a minimum of 20 hours per week during the customary hours of operation.

H. *Licensed Practical Nurse*

1. Qualifications:

a. - b. ...

c. when employed with one or more agencies, must inform all employers and cooperate and coordinate to assure highest performance of quality when providing services to the beneficiary;

d. the LPN with a minimum of five years full-time home health experience may act as an operational consultant. The LPN is not qualified to serve as a consultant for patient care issues under any circumstances.

I. *Medical Social Services*

O. *Registered Nurse*

1. Qualifications:

a. - b. ...

c. when employed with one or more agencies, must inform all employers and cooperate and coordinate to assure highest performance of quality when providing services to the beneficiary.

d. Only RNs who have the following credentials shall make psychiatric nurse visits. Experience must have been within the last five years. If not, then documentation must support psychiatric retraining, or classes, or CEUs to update psychiatric knowledge.

i. RN with a master's degree in psychiatric or mental health nursing.

ii. RN with a bachelor's degree in nursing with one year experience in an active treatment unit in a psychiatric or mental health hospital or outpatient clinic.

iii. RN with a diploma or associate degree with two years' experience in an active treatment unit in a psychiatric or mental health hospital or outpatient clinic.

e. Only RN's who meet the following criteria may provide consultation services to other HHAs:

i. must have three full-time years of home health experience as an RN;

ii. must not provide any consulting services simultaneously/concurrently with other duties at any home health agency.

P. *Speech Pathology Services*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 22:1136 (November 1996).

§9169. State Licensing

A. Licensing Procedures for Initial Licensing

1.a. - b. ...

c. submit a line of credit from a federally insured, licensed, lending agency for at least \$75,000 as proof of adequate finances to sustain an agency for at least six months;

d. submit proof of general and professional liability insurance of at least \$300,000. Submit proof of worker's compensation. The certificate holder shall be the Department of Health and Hospitals;

e. submit resumes' and documentation of qualifications for administrator/alternate and director of nurses/alternate. May not submit additional information after original resume is submitted for review, except for changes in the designated positions or with approval of the Health Standards Section of the Department of Health and Hospitals;

f. ...

g. submit in writing any financial or familial relationship with any other entity providing home health care services in the state;

h. no application will be reviewed until payment of application fee. The agency must agree to become fully operational and prepared for initial survey within 90 days after payment of the application fee. If the agency is unable to do so, the application shall be considered closed and the agency shall be prohibited from submitting a new application for one year;

i. - m. ...

n. if initial survey reveals agency is not in substantial compliance, agency shall transfer patients and close immediately. However, if the noncompliance is determined by DHH to be of a nonserious nature and/or is not an immediate threat to the health and well-being of clients, then DHH may opt to issue a provisional license to the facility.

C. Issuance of a License. The licensing agency shall have authority to issue three licenses as described below:

3. Provisional License—may be issued to those existing agencies which do not meet criteria for full licensing, is valid for six months or until termination date and may be issued by the DHH for the following nonexclusive reasons:

a. more than five violations of minimum standards in a one-year period;

d. fails to correct deficiencies within 60 days of being cited;

g. has an owner, administrator, or director of nurses who has pled guilty or pled nolo contendere to, or been convicted of a felony, as shown by a certified copy of the record of the court of conviction, or if the applicant is a firm or corporation, when any of its members or officers, or the person designated to manage or supervise the home care, has been convicted of a felony, pled guilty or pled nolo contendere;

h. fails to notify the Department, in writing, within 30 days of a change as provided in this Paragraph. Any notification of change shall be accompanied by the appropriate fee. No notification of change can be processed until the appropriate fee has been received by the Department. A change shall include a change in any of the following:

- i. controlling ownership or management;
- ii. administrator/alternate;
- iii. director of nursing/alternate;
- iv. address/telephone number;
- v. hours of operation;
- vii. after hours contact procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 22:1137 (November 1996).

§9173. Changes

D. The license shall not be relocated out of the geographic area for which it was originally issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 22:1137 (November 1996).

§9177. Revocation or Denial of Renewal of License

* * *

B. The Secretary of DHH may deny an application for a license, or refuse to renew a license or revoke a license in accordance with R.S. 2009.36 and 2009.37.

An agency license shall be not be renewed and/or shall be revoked for any of the following:

B.1.a. - o. ...

- p. cruelty to patients;
- q. acceptance of a patient when the agency has insufficient capacity to provide care of that patient;
- r. pleading guilty to, pleading nolo contendere to, or conviction of a felony by an owner, administrator, or director of nursing as shown by a certified copy of the record of the court of conviction, or if the applicant is a firm or corporation, when any of its member or officers, or the person designated to manage or supervise the home care, has been convicted of a felony.

Note: For purposes of this Paragraph "conviction of a felony" means and includes:

- i. conviction of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or Title XX services program since the inception of those programs;
- ii. conviction of a felony relating to violence, abuse, and/or neglect of a person;
- iii. conviction of a felony related to the misappropriation of property belonging to another person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 22:1138 (November 1996).

§9193. Clinical Records

* * *

D. Protection and Retention of All Records

1. Records are retained for five years from the date on which the record was made unless there is an audit or litigation affecting the records.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:1138 (November 1996).

Bobby P. Jindal
Secretary

9611#058

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Civil Penalties; Significant Services; Standards of Conduct and Ethics; and Definitions (LAC 42)

The Gaming Control Board hereby adopts initial Rules 105-107 and amends the definition of key employee provided in LAC 42:XIII.1701, in accordance with R.S. 27:1 et seq., and

the Administrative Procedure Act, R.S. 49:950 et seq., to be effective upon publication in the *Louisiana Register*.

Title 42

LOUISIANA GAMING

§105. Civil Penalties

A. The Department is authorized to take enforcement action by imposing civil penalties against any entity that has a license, permit or casino contract, for violation of the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 4:501, et seq., the Video Draw Poker Devices Control Law, R.S. 33:4862.1 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 4:601 et seq., or Rules promulgated in accordance therewith, provided that such provisions and Rules are not in conflict with any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and Rules promulgated in accordance therewith.

B. In imposing civil penalties, the Department shall issue a citation which will specify the violation. The citation shall provide for the payment of a civil penalty to the Department in accordance with a schedule which will be approved by the Board and which will be furnished to licensees, permittees or a casino operator on request. The penalty shall be paid within 10 days of the issuance of the citation unless within that period the person to whom the citation is issued files a written request for a hearing with the Board.

C. The Department may institute an administrative action with the Board based upon the noncompliance of the licensee, permittee or casino contractor with an enforcement action, or based upon a pattern of violations requiring enforcement action. Such administrative action may result in the suspension or revocation of a license or permit or such other penalty as the Board may deem appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1138 (November 1996).

§106. Persons Furnishing Significant Services

A. For purposes of R.S. 4:540(A), a person who furnishes significant services which are material and integral to the operation of a licensed riverboat shall include but not be limited to:

- 1. any individual, corporation, firm, partnership, or other legal entity that furnishes, by contract or otherwise, marine operations services and personnel to licensed riverboat operators;
- 2. masters and/or pilots and chief mates and/or first mates of riverboats whether employees or contract personnel who have authority to certify reports regarding cruising schedules and are authorized to operate the vessel for cruises.

B. Any person defined in Subsection A, shall submit an application to the Board and be issued a permit by the Board prior to furnishing services to any licensed riverboat operator. This Rule applies to all marine operations regardless of any permit held.

C. All persons defined in Subsection A, furnishing services to a licensed riverboat operator prior to August 6,

1996, may continue to furnish services until their application has been finally acted upon by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1138 (November 1996).

§107. Standards of Conduct and Ethical Rules

A.1. No Board member or employee shall engage in gaming activities in any establishment under the jurisdiction of the Board, except as required in the course of his duties.

2. No Board member or employee shall solicit or accept employment from a casino operator or from any licensee or permittee, or any holding, intermediary, or subsidiary company of an operator, a licensee, or a permittee, for a period of five years after termination of service on the Board or employment by the Board.

3. No immediate family member of a Board member shall be employed by the casino operator, any licensee or a permittee, or any holding, intermediary, or subsidiary company of an operator, a licensee, or a permittee.

4. No Board member or Board employee nor a member of the immediate family of any Board member or employee shall acquire a future direct or indirect pecuniary interest in the gaming casino operator or any other gaming licensee or permittee, or a holding, intermediary, or subsidiary company of an operator, a licensee, or a permittee, during the term of office or employment of the member or employee.

5. No Board member or Board employee shall attempt to affect the result of an election or a nomination for an office; directly or indirectly coerce, attempt to coerce, command, or advise a person to pay, lend, or contribute any thing of value to a political party, a committee, an organization, an agency, or a person for political purposes; or take part in a political campaign or the management of a political campaign.

6.a. No member or Board employee nor a member of the immediate family of a Board member or Board employee shall make a contribution or loan to, or expenditure on behalf of, a candidate or committee;

b. No casino operator or any other licensee or permittee shall make a contribution or loan to, or expenditure on behalf of, a candidate or committee.

7.a. No Board member or Board employee shall represent the interests of any individual or entity, other than the Board's interests, before the Board for a period of five years following the date of termination of the person's term or employment with the Board.

b. A consultant or person under contract for services to the Board may not represent the interests of any individual or entity, other than the Board's interests, before the Board nor may such consultant or person under contract for services act as a consultant to or for or have a contract for service with the casino operator or any other licensee or permittee, or any holding, intermediary, or subsidiary company of an operator, licensee, or permittee, during the term of any agreement with the Board.

8. No Board member or Board employee during service on or employment by the Board or thereafter shall reveal information which is confidential, as provided in R.S. 27:21, except as is permitted in that Section.

9. A Board member should not permit private or ex parte interviews, arguments or communications designed to influence his or her action with reference to any matter before the Board.

10. A Board member should not accept in any matter before the Board, documents or written communications intended or calculated to influence his or her action unless the contents are promptly made known to all parties.

B.1. Violations by a Board member or any immediate family member of a Board member of any ethical Rule adopted by the Board or provided by law shall be cause for removal of the Board member.

2. Violations by a Board employee of any ethical Rule adopted by the Board or provided by law may be sanctioned by the Board by suspension, demotion, or termination from employment, or some lesser sanction as determined appropriate by the Board after receiving a report from a Board hearing officer, if a hearing is requested by the employee, subject to applicable civil service laws and regulations.

3. Violations of any ethical Rule after termination of Board service or employment shall be punishable by the imposition of a fine not to exceed \$10,000, as determined by a hearing officer pursuant to R.S. 27:25(D).

C. As used in this Rule, and for the purposes of R.S. 27:13, *Licensee* or *Permittee* shall mean any person who holds a license or permit issued pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 4:501 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 4:601 et seq., the Video Draw Poker Device Control Law, R.S. 33:4862.1 et seq., or the Louisiana Gaming Control Law, R.S. 27:1 et seq, specifically including, but not limited to, manufacturers, distributors, suppliers, vendors, device owners, service entities, persons furnishing services or goods material and integral to the operation of a riverboat, gaming employees, key employees, nonkey employees, equity owners, contractors, and all establishments regardless of the number of gaming devices in operation at the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996).

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Enforcement Division

Chapter 17. General Provisions

§1701. Definitions

As used in the regulations, the following terms have the meanings described below:

* * *

Key Gaming Employee—any individual who is employed in a managerial or supervisory capacity and who is empowered to make discretionary decisions that regulate gaming activities including, but not limited to, the general manager of the riverboat, assistant casino manager, casino shift managers and/or boat operations managers, gaming managers for slot operations and table games, assistant managers for slot operations and table games, credit

executives, cage and credit managers, assistant cage managers, assistant credit managers, accounting controller, surveillance director, assistant surveillance director, management information systems manager, director of security, assistant director of security, and those individuals whose decisions and activities have a significant impact on the day-to-day operations of a gaming establishment. All other gaming employees, unless determined otherwise by the Board, shall be classified as nonkey gaming employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division LR 22:1176 (September, 1993), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996).

Hillary J. Crain
Chairman

9611#027

RULE

Department of Public Safety and Corrections Gaming Control Board

Definitions; License Issuance/Renewal;
Hearings; and Chairman Delegation (LAC 42)

The Louisiana Gaming Control Board hereby adopts initial Rules 101-104 in accordance with R.S. 27:1 et seq. and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

§101. Definitions

Board—the Louisiana Gaming Control Board.

Chairman—the Chairman of the Louisiana Gaming Control Board.

Department—the Department of Public Safety, Office of State Police.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1140 (November 1996).

§102. Issuance and Renewal of Licenses by the Department

The Department is authorized to issue to qualified applicants, nonkey gaming employee permits and nongaming vendors' licenses, and to renew licenses for the operation of video draw poker devices at facilities with no more than three video draw poker devices at their licensed establishment. The Department is authorized to determine the applicants' qualifications in accordance with law, including but not limited to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 4:501 et seq., the Video Draw Poker Devices Control Law, R.S. 33:4862.1 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 4:601 et seq., and Rules promulgated in

accordance therewith, when such provisions and Rules are not in conflict with any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and Rules promulgated in accordance therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1140 (November 1996).

§103. Hearings on Rule 102 Disputes

A. Any person required to be licensed or permitted by the Department by authority of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and whose license or permit, or the renewal thereof, has been denied by the Department, may request a hearing by the Board by filing a written request with the Board. The request must be filed within 10 days of receipt of the certified mailing of the denial, or where the notice of denial has been personally served by the Department, 10 days from service of the notice.

B. 1. A hearing will be conducted in accordance with procedural and evidentiary Rules contained in the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and Rules promulgated in accordance therewith.

2. No discovery request shall be made within 20 days of the date scheduled for the hearing.

C. The Board may reverse or modify an action if it finds that the action of the Department, under facts determined by the Board, was contrary to any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., or was contrary to the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 4:501 et seq., the Video Draw Poker Devices Control Law, R.S. 33:4862.1 et seq., or the Louisiana Economic Development and Gaming Corporation Act, R.S. 4:601 et seq., and any Rules promulgated in accordance therewith, when such laws and rules are not in conflict with the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1140 (November 1996).

§104. Delegation to Chairman

A. The Chairman is authorized to exercise all powers and authority of the Board except that the Chairman shall not:

1. enter into contracts in excess of \$100,000;
2. adopt rules;
3. enter into the casino operating contract on behalf of the Louisiana Gaming Control Board;
4. issue a riverboat gaming operator license, provided that the Chairman may determine that conditions imposed on a conditionally licensed riverboat gaming operator have been met;
5. approve changes of the berth or design specifications of a riverboat; or

6. approve transfers of ownership interests in a riverboat gaming operator licensee, the casino gaming operator, or a qualified video poker truck stop facility.

B. Any decision, order, or ruling of the Chairman exercised pursuant to the provisions of this Rule shall be subject to veto as provided by the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1140 (November 1996).

Hillary J. Crain
Chairman

9611#026

RULE

Department of Revenue and Taxation Income and Corporation Franchise Taxes Division

Inheritance and Estate Transfer Taxes (LAC 61:I.1701)

Under the authority of R.S. 47:2420 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation has adopted LAC 61:I.1701 concerning the interest on delinquent inheritance and estate transfer taxes.

This regulation establishes the instances when interest on inheritance and estate transfer tax payments may be waived and the procedures to be followed to obtain waiver of interest.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 17. Inheritance and Estate Transfer Tax §1701. Extension of Time to File; Waiver of Interest

A. Definitions. For the purposes of this Section, the following terms are defined:

Bona Fide Contested—instances when the right of any heir or legatee to receive an inheritance or legacy is contested in the succession proceeding.

Ignorant of the Inheritance—instances when the heir, legatee, or beneficiary lacked knowledge of either his right to inherit or of the property to be inherited.

B. Waiver of Interest. Interest on inheritance and estate transfer taxes may be waived by the Secretary if the settlement of the succession is bona fide contested or the beneficiary was ignorant of the inheritance. Beneficiaries or their legal representative requesting waiver of interest must make written application to the Secretary including the reasons why waiver of interest should be granted.

C.1. Extension of Time to File. In all cases in which reasonable cause is established to the satisfaction of the court having jurisdiction over the succession, an extension of time to file an inheritance tax return without the payment of interest may be granted.

2. When it is shown that an estate is required to file a federal estate tax return, such fact shall be deemed reasonable cause for granting an extension to file without the payment of interest not to exceed 15 months from the date of death.

3. An application for an extension to file a return must be submitted to the court prior to the time that the tax becomes due. An extension of time to file a return without the payment of interest for periods exceeding 15 months from the date of death may be granted by the court if the Secretary consents or is made a party to the proceeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2420.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Division, LR 22:1141 (November 1996).

Kenneth Comeaux
Director

9611#003

RULE

Department of Social Services Office of Family Support

Food Stamp Program (LAC 67:III.1978 and 2011)

The Department of Social Services, Office of Family Support, has amended the LAC 67:III Subpart 3, Food Stamps.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the Office of Family Support will prohibit an increase in food stamp benefits when a household's benefit from another federal, state or local means-tested assistance program has been decreased as a result of a penalty imposed on the household for failing to comply with a requirement of the other program. The Notice of Intent (*Louisiana Register*, Volume 22, Number 8) which was proposed pursuant to F.R. 61:19155-19160 of the United States Department of Agriculture, Food and Consumer Service (FCS), would have prohibited an increase in situations where "intentional" failure to comply had occurred. Public Law 104-193, signed into law on August 22, 1996, now supersedes the FCS regulatory change which authorized the proposed Rule, and the two occurrences of the word "intentional" have been deleted from §1978 of the final Rule. This change did not alter the Fiscal and Economic Impact Statement previously approved and published with the Notice of Intent.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households Subchapter I. Income and Deductions

§1978. Income Decreased for Failure to Comply with Another Program

A. Effective November 27, 1996, an increase in food stamp benefits is prohibited when a household's benefit from another federal, state or local means-tested assistance program

is decreased (reduced, suspended or terminated) due to failure to comply with a requirement of the program that imposed the benefit decrease.

B. The procedures for determining food stamp benefits when there is such a decrease in income are as follows:

1. When a recipient's benefits under a federal, state, or local means-tested program (such as but not limited to SSI or AFDC) is decreased due to noncompliance, the Food Stamp Program identifies that portion of the decrease which is a penalty.

2. OFS calculates the food stamp benefits using the benefit amount which would be issued by that program if a penalty had not decreased the recipient's benefit.

AUTHORITY NOTE: Promulgated in accordance with F.R. 61:19155 et seq., 7 CFR 272.1, 273.9 and 273.11.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1141 (November 1996).

Subchapter R. Claims Against Households

§2011. Recoupments for Intentional Non-compliance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 49:48677 et seq., 7 CFR 273.18.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:95 (February 1985), LR 11:349 (April 1985), repealed by the Department of Social Services, Office of Family Support, LR 22:1142 (November 1996).

Madlyn B. Bagneris
Secretary

9611#050

RULE

Department of Social Services Office of Family Support

JOBS Program (LAC 67:III.2911)

The Department of Social Services, Office of Family Support, has amended LAC 67:III, Subpart 5, Job Opportunities and Basic Skills Training Program.

Under the authority of 45 CFR 250.63(k) which allows a state to design and provide a work experience program for participants, the JOBS Program, known in Louisiana as Project Independence, is expanding the availability of work activities previously limited to the AFDC-unemployed parents population, in order to provide more opportunity to a wider range of people for worksite experience.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 5. Job Opportunities and Basic Skills Training Program

Chapter 29. Organization

Subchapter C. Activities and Services

§2911. Program components

A.1. - 7. ...

8. Independence through Work. This is unsalaried job experience and training at clearly defined, well-supervised

worksites, excluding private homes and worksites that do not lead to gainful employment. The minimum scheduled participation must be 20 hours per week.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54: 42146 et seq. and 45 CFR 250.63, 250.33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Office of Family Support, LR 17:1227 (December 1991), LR 19:504 (April 1993), LR 20:1130 (October 1994), LR 22:1142 (November 1996).

Madlyn B. Bagneris
Secretary

9611#049

RULE

Department of Treasury Board of Trustees of the State Employees Group Benefits Program

Plan Document—Private Duty Nursing;
Organ Transplants; Well Child Care

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by 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 adopted amendments to the Plan Document of Benefits.

The Board finds that it is necessary to amend the Plan Document to provide for utilization management of benefits for private duty nursing services in order to assure that such services are available and provided when medically required, to clarify benefit limitations for transportation expenses associated with organ transplant procedures in light of recent litigation, and to extend well child care benefits until attainment of age 16 in order to promote the health and welfare of covered dependent children of employees. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amendment Number 1 -- Delete Article 3, Section I, Subsection F, Paragraph 14 in its entirety and leave blank.

Amendment Number 2 -- Amend Article 3, Section IV, Subsection J, Paragraph 4, to read as follows:

"J. Services and/or supplies not listed herein as eligible expenses may be considered covered services and/or supplies under this Section, provided that the services and/or supplies are integral to the alternative care plan and have been recommended by or to and agreed upon by PAC, the Attending Physician, the Program and the Covered Person. Such services and supplies may include, but shall not be limited to:

* * *

"4. Private-duty nursing care;

* * *

Amendment Number 3 -- Amend Article 3, Section VIII to add Subsection NN, to read as follows:

"NN. Services of a private-duty registered nurse (R.N.) or of a private-duty licensed practical nurse (L.P.N.), except as approved in accordance with Article 3, Section IV. Routine nursing services, i.e., "floor nursing" services, provided by nurses employed by or under contract with a Hospital shall be considered as part of Room and Board charges and paid accordingly. Private-duty nursing services being provided to a Covered Person on July 1, 1985, in a non-hospital treatment setting shall constitute an eligible expense until no longer certified as Medically Necessary by the attending physician."

Amendment Number 4 -- Amend Article 3, Section I, Subsection F, Paragraph 25 and Subparagraph c, and add new Subparagraphs d and e, to read as follows:

"25. The Program will cover eligible expenses associated with an organ transplant procedure when the transplant recipient is a Covered Person, including expenses for patient screening, organ procurement, transportation of the organ, transportation of the patient and/or donor, surgery for the patient and donor and immunosuppressant drugs. The following conditions must be met in order for this coverage to apply:

* * *

"c. The recipient must be admitted to and the transplant surgery performed at a medical center which has an approved transplant program as determined by an appropriate governmental agency.

"d. Coverage for expenses associated with an organ transplant procedure will be subject to the same deductible, co-insurance, exclusions and other provisions which apply to other expenses that the Program covers. Reimbursement of transportation charges associated with an organ transplant procedure will be limited to the maximum reimbursement allowed for professional ambulance services, in accordance with Article 3, Section I(F)(18). In no case will the Plan cover expenses for the transportation of surgeons or family members of either the patient or donor;

"e. All benefits paid for eligible expenses associated with an organ transplant procedure, including expenses of the donor, will be applied against the lifetime maximum benefit of the transplant recipient;"

Amendment Number 5 -- Amend the Schedule of Benefits relative to well child care as follows:

"Well Child Care (from discharge as a newborn until attainment of age 16)

"Percentage Payable (Deductible waived). . . . 100 percent
"Maximum Benefit

per calendar year per child \$35 limited to one office visit per year"

Amendment Number 6 -- Amend Article 1, Section I, Subsection KK to read as follows:

"KK. The term 'Well-Child Care' as used herein shall mean routine physical examinations, active immunizations, check-ups and office visits to a Physician, except for the Treatment and/or diagnosis of a specific illness, from the time a newborn

is discharged from the Hospital following birth until attainment of age 16."

James R. Plaisance
Executive Director

9611#065

RULE

**Department of Wildlife and Fisheries
Office of Fisheries**

**Commercial Harvest of Southern Flounder
(LAC 76:VII.351)**

The Department of Wildlife and Fisheries does hereby promulgate a Rule (Title 76:VII.351) to place limits on the commercial harvest of southern flounder (*Paralichthys lethostigma*). These regulations are required to effectuate requirements of Act 1316 of the Regular Legislative Session. Authority for adoption of this Rule is included in R.S. 56:317 and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.4.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§351. Commercial Harvest of Southern Flounder

A. Commercial Harvest with Pompano Strike Nets

1. The commercial harvest of southern flounder (*Paralichthys lethostigma*) in Louisiana waters by pompano strike nets is closed and will remain closed until May 1, 1997. No vessel possessing any pompano strike net shall have southern flounder (*Paralichthys lethostigma*) aboard the vessel, whether caught within or without the territorial waters of the state.

2. Effective with the closure, the sale, barter, or exchange of, and the commercial possession of southern flounder (*Paralichthys lethostigma*) taken with strike nets shall be prohibited.

B. Commercial Harvest with Commercial Gear Other Than Strike Nets

1. Other provisions of law notwithstanding, a properly licensed commercial vessel that contains legal commercial fishing gear, other than strike nets, may have on board up to a daily possession limit of 10 southern flounder (*Paralichthys lethostigma*) per person on board.

2. Other provisions of law notwithstanding, a properly licensed commercial fisherman who is not on a vessel and who is using legal gear, other than strike nets, may possess up to a daily limit of 10 southern flounder (*Paralichthys lethostigma*). Southern flounder (*Paralichthys lethostigma*) legally possessed under this Rule may be purchased, bartered, traded, exchanged or sold.

C. Commercial Possession and Sale

1. Nothing shall prohibit the possession or sale of southern flounder (*Paralichthys lethostigma*) legally taken

prior to the closure providing that all commercial dealers possessing southern flounder (*Paralichthys lethostigma*) taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

2. Effective with this Rule, in addition to all records otherwise required by law, wholesale/retail dealers shall maintain records indicating the number and poundage of southern flounder (*Paralichthys lethostigma*) for each transaction when southern flounder (*Paralichthys lethostigma*) are acquired, possessed or transferred.

3. Commercial dealers possessing southern flounder (*Paralichthys lethostigma*) legally imported into the state shall maintain appropriate records in accordance with other provisions of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:317, Act 1316 of the 1995 Regular Legislative Session and 56:325.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 22:1143 (November 1996).

James H. Jenkins, Jr.
Secretary

9611#047

RULE

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

**Commercial Fish Seining Permit—Lake Louis
(LAC 76:VII.183)**

The Wildlife and Fisheries Commission hereby adopts the following Rule on commercial fish seining on Lake Louis in Catahoula Parish.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 1. Freshwater Sport and Commercial Fishing
§183. Commercial Fish Seining Regulations, Lake Louis**

Commercial fish seining regulations on Lake Louis, Catahoula Parish, Louisiana are as follows:

Commercial fish seining shall be prohibited on Lake Louis except that fish seining will be legal under a special permit issued by the Department of Wildlife and Fisheries as described below:

DATE ISSUED: _____
SPECIAL COMMERCIAL FISH SEINING PERMIT NUMBER: _____
NAME: _____
ADDRESS: _____
FOR PERIOD: JANUARY 1, _____ TO DECEMBER 31, _____

This permit entitles the holder, who must have a valid commercial fishing license and fish seine license, to conduct legal fish seining operations on Lake Louis, in Catahoula Parish, Louisiana.

In addition to existing Louisiana fish seining Rules, the following special permit regulations shall apply:

1. Seining shall be permitted only on Monday through Friday, during daylight hours from official sunrise to official sunset.

2. Permittee shall notify Enforcement Personnel, Department of Wildlife and Fisheries, located at the Region IV office headquarters, Ferriday, Louisiana, at least 24 hours prior to conducting each seining operation.

3. Permittee shall make every effort to conduct seining operations as per R.S. 56:328 which states: "Nets shall not be hauled out upon the shore in such a way that any illegal fish which may happen to be taken therein cannot be returned to the water without injury."

4. Permittee shall leave no fish captured during a seining operation on or in the vicinity of the shoreline.

5. Permittee must have this permit on his person while using or transporting commercial fish seines in the above described waters.

6. Failure to comply with the terms of this permit or any Louisiana commercial fishing regulations shall result in immediate cancellation of the permit, and the option to deny the issuance of another seine permit in the future.

7. This permit is issued on a calendar year basis and shall be renewed each year.

8. No person convicted of a fisheries related violation Class II or greater within the last five years shall be eligible to obtain this permit.

Sincerely,
Secretary

I have read and understand the terms of this permit and agree to comply.

SIGNATURE: _____

COMMERCIAL FISHERMAN LICENSE NUMBER: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:1144 (November 1996).

Glynn Carver
Chairman

9611#045

RULE

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

**Recreational Harvest of Southern Flounder
(LAC 76:VII.353)**

The Wildlife and Fisheries Commission does hereby promulgate a Rule (Title 76:VII.353) to place daily take and possession limits on the recreational harvest of Southern Flounder (*Paralichthys lethostigma*). Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishery
§353. Recreational Harvest of Southern Flounder**

The daily take and possession limit for the recreational taking of Southern Flounder (*Paralichthys lethostigma*) caught within or without Louisiana waters shall be 10 fish per day and in possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:1144 (November 1996).

Glynn Carver
Chairman

9611#046

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Turkey Hunting Season—1997

In accordance with the Notice of Intent published in the July, 1996 *Louisiana Register*, and in accordance with the Wildlife and Fisheries Commission's regular monthly meeting in November, the Commission hereby ratifies open hunting season dates, bag limits, 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 §115 of Title 56 of the Louisiana Revised Statutes of 1950.

1997 Turkey Hunting Season Schedule

(Shooting Hours: One-half hour before sunrise to one-half hour after sunset)

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 muzzle loading shotguns, using shot not larger than Number 2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited.

No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt or other feed.

Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

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.

All licensed turkey hunters including lifetime license holders 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.

Turkey Hunting Season—Open Only in the Following Areas:

Area A

March 22-April 27

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.

Avoyelles: That portion bounded on the east by the Atchafalaya River northward from Simmesport, on the north by Red River to the Brouillette Community, on the west by La. 452 from Brouillette to La. 1, eastward to Simmesport, 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 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 Parish 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 East Carroll Parish 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.

Iberville: West of La. 1. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

LaSalle: East of Little River and Castor Creek, west of La. 127 from the Caldwell Parish line. ALSO east of La. 126 from the Catahoula Parish line to Rosefield to Holum.

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 Parlange to U.S. 190. FURTHER EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

St. Landry: That portion bounded on the north by U.S. 190, west by the West Atchafalaya Basin Protection Levee, except: U.S. Army Corps of Engineers lands, formerly St. Landry Land and Timber holdings - March 22-30, self-clearing permit required, one turkey per hunter bag limit. Also that portion of the parish bounded on the north by La. 10 from the West Atchafalaya Protection 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 on the West Atchafalaya Protection Levee to its jct. with La. 10.

Upper St. Martin: All within the Atchafalaya Basin. FURTHER EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

Winn: Only that portion within the boundaries of National Catahoula Wildlife Management Preserve.

Area B

April 12-April 27

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 state line to U.S. 71, east of U.S. 71 from La. 2 to I-20, south of I-20 from U.S. 71 to U.S. 171, and east of U.S. 171 to the DeSoto Parish line.

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 state 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 La. 15 from Ouachita Parish line to La. 33 at Farmerville, north of La. 33 from Farmerville to Marion, north of La. 827 from Marion to Dean, north of Dean Church Road to Alabama Landing Road, north of Alabama Landing Road from Dean Church Road intersection to Ouachita River.

Area C

March 22-March 30

Portions of the Following Parishes Are Open:

Ascension: All east of the Mississippi River.

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 Glaize structure east of Bordelonville southward to its jct. with La. 451.

Concordia: North and east of Sugar Mill Chute (Concordia Parish) from state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to U.S. 84, south of U.S. 84 eastward to La. 15 (Ferriday), east of La. 15 northward to U.S. 65 (Clayton), east of U.S. Hwy. 65 northward to Tensas Parish line.

Iberville: All east of the Mississippi River.

Tensas: East and south of U.S. 65 northward from Concordia Parish line to La. 128, south of La. 128 to St. Joseph, east and south of La. 605, 604, 3078 northward to Port Gibson Ferry.

1997 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 1996-97 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 two 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, Sherburne, Sicily Island and Tunica Hills WMAs are restricted to those persons selected as a result of the pre-application Lottery. Deadline for receiving applications is January 31, 1997. 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 record their turkey 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 22-April 13	Self-Clearing	None
Big Lake	March 22-March 30	Self-Clearing	None
Bodcau	April 12-April 27	Self-Clearing	None
Boeuf	March 22-March 30	Self-Clearing	None
Boise Vernon	March 22-April 13	Self-Clearing	None
Camp Beauregard	March 22-April 6	Self-Clearing	None
Dewey Wills	March 22-March 30	Self-Clearing	March 22-23 March 24-26
Fort Polk	March 22-April 27	Self-Clearing	None
Georgia-Pacific	April 12-April 20	Self-Clearing	April 12-13 April 14-16
Grassy Lake	March 22-March 30	Self-Clearing	None
Jackson-Bienville	April 12-April 27	Self-Clearing	None
Little River	March 22-April 6	Self-Clearing	None
Loggy Bayou	April 12-April 13 April 19-April 20	Self-Clearing	April 12-13 April 19-20
Pearl River	March 22-April 6	Self-Clearing	None
Peason Ridge	March 22-April 27	Self-Clearing	None
Pomme de Terre	March 22-March 30	Self-Clearing	None
Red River	March 22-March 30	Self-Clearing	None
Sandy Hollow	March 22-April 6	Self-Clearing	None
Sherburne	March 22-March 30	Self-Clearing	March 22-23 March 24-26
Sicily Island	March 22-March 23 March 29-March 30 April 5-April 6	Self-Clearing	March 22-23 March 29-30 April 5-6
Three Rivers	March 22-March 30	Self-Clearing	None

Tunica Hills	March 22-March 23 March 29-March 30 April 5-April 6	Self-Clearing	March 22-23 March 29-30 April 5-6
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*Only those wildlife management areas listed shall have a turkey hunting season. All other areas are closed. The Department manages additional lands that are included in the WMA system and available for public recreation. Contact the appropriate Wildlife and Fisheries District Office for specific information and any additional season dates.

**The deadline for receiving applications for all turkey lottery hunts on WMAs is January 31, 1997.

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. An annotated list of turkey weigh stations is included in the regulations pamphlet.

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 22:1145 (November 1996).

Glynn Carver
Chairman

9611#048

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Marketing
Market Commission

Egg Grading and Marketing
(LAC 7:V.Chapter 15)

The Department of Agriculture and Forestry, State Market Commission, advertises its intent to amend Rules revising LAC 7:V.Chapter 15, Subchapter B regarding egg grading and marketing. The Rules require all egg handlers (processors or wholesalers selling egg products) to be licensed. The Rules also clarify existing regulations with regard to store repackaging of eggs and temperature requirements.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing
Chapter 15. Market Commission-Poultry and Eggs
Subchapter B. Egg Grading and Marketing
§1515. Definitions

For the purpose of these regulations the following words, terms and phrases shall be construed to mean:

Egg Products—any other products made from whole eggs, egg whites, egg yolks or any combination thereof that is not included in the above definitions.

* * *

Producer—any person engaged in the business of producing eggs in Louisiana, either as an owner or as an officer or stockholder of a business engaged in producing eggs in Louisiana, or any person deriving a profit from such business or a person who further processes boiled, frozen or other egg products derived from fresh shell eggs.

* * *

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended and promulgated LR 19:1121 (September 1993), amended LR 23:

§1516. Temperature Requirements

A. The temperature of shell eggs shall be held at an ambient temperature of 45° F or below at all times when being transported, stored, or displayed for sale except for brief periods of loading or unloading.

* * *

2. Every person, firm, or corporation selling shell eggs for the purpose of resale to the consumer must store and transport shell eggs under refrigeration at an ambient temperature no greater than 45° F, and all containers of eggs must be labeled "Keep refrigerated at or below 45° F." The requirements of this Section include, but are not limited to, retailers, institutional users, restaurants, nursing homes, dealer-wholesalers, food handlers, transportation firms, or any person who delivers to the retail or consuming trade. Eggs found which do not meet refrigeration requirements, either in transit, storage, or display, can be seized and destroyed by Department of Agriculture and Forestry inspectors.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1122 (September 1993), amended LR 23:

§1517. Sale or Offering for Sale of Eggs/Egg Products Within Louisiana

A. No person, firm, or corporation shall sell, traffic in, or deliver to the retail or consuming trade, any eggs unfit for human consumption or any eggs that do not meet Grade B requirements. A store may repackage eggs located in the store as long as the following requirements are met:

1. All boxes have the necessary labeling requirements which will include:

- a. grade and size (Repackaged eggs must be labeled as Grade B);
- b. date when repackaged;
- c. statement saying that the eggs have been repackaged by the store where the eggs are located;
- d. contains the phrase "Keep refrigerated at or below 45° F."

2. Eggs must meet B Grade requirements.

3. Eggs cannot be repackaged more than once.

4. Eggs older than 10 days from the date of repackaging cannot be sold and must be destroyed on premises.

5. Any store found postdating repackaged eggs will lose the right to repackage eggs.

6. Stores may lose the right to repackage eggs if the repackaged eggs do not meet Grade B standards.

B. All shell eggs and egg products offered for sale in Louisiana are subject to inspection by personnel of the Louisiana Department of Agriculture before being placed in retail outlets. If a particular lot of eggs does not meet the Louisiana grade standards the said lot may be seized or be retained for shipment back to the producer. All packer/producers and retailers must maintain records showing the disposition of all eggs retained and returned to the packer/producer.

C. This Chapter shall be applicable to all retailers of eggs, except that retailers shall be permitted to sell eggs, identified as unclassified, when such eggs are purchased directly from producers who own less than 500 hens; however, eggs sold as unclassified must meet Grade B standards.

D. Invoices

1. Every person, firm, or corporation selling eggs or egg products to a retailer or manufacturer shall furnish an invoice showing the size, quality, and date of transaction of such eggs according to the standards prescribed by this Section together with the name and address of the person by whom the eggs were sold. This invoice shall be retained for two years.

2. ...

E. Containers

1. ...

2. Any and all shell eggs offered for sale at retail shall be prepackaged, and shall be plainly marked as to grade and size with letters not less than 3/8 inch in height.

3. Containers must contain the phrase "Keep refrigerated at or below 45° F."

F. Licenses

1. Every person, firm, or corporation engaged in selling shell eggs, frozen eggs, liquid eggs, or any egg product to a retailer or manufacturer shall secure a license. The license shall be issued by the Commissioner, after application made to and approval granted by the Louisiana Egg Commission.

2. All packers/producers/processors are subject to yearly plant inspections by the Department. Travel expenses incurred in conducting such inspections shall be reimbursed to the Department of Agriculture and Forestry by the licensee.

3. Application forms for license shall be furnished by the Department of Agriculture and Forestry. Each license application shall be accompanied by a fee of \$10 payable to the Louisiana Egg Commission. Upon approval of the application, a license will be issued to the applicant. A license will be valid for a period of one year—September 1 through August 31.

4. Any packer/producer/processor/dealer-wholesaler/broker that does not apply for a license, after being informed that such business requires a license or having received the necessary applications from the Department, shall have all eggs sold by such business put off-sale until such time as the business obtains a license.

G. Inspection Requirements for Packing Plants and Egg Products/Boiling Plants

1. Packing plants and egg products/boiling plants shall meet minimum requirements of state health regulations, USDA regulations, and Food and Drug Administration regulations and practice good sanitation practices. If minimum sanitation requirements for food handling are not met, the Department has the right to stop operation until such time as the plant is in compliance.

2. All eggs used in boiling operations must meet Grade B requirements. Boiling operations will provide the Department of Agriculture and Forestry with a schedule stating the hours of operation. Boiling operations will be checked for sanitation and egg quality on a regular basis. Eggs boiled which do not meet minimum Grade B requirements will be destroyed by the licensee upon request of and in the presence of Department personnel.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended and promulgated LR 19:1122 (September 1993), amended LR 23:

§1520. Inspections; Fees; Failure to Meet Standards

A. All eggs and egg products offered for sale in Louisiana are subject to inspection by personnel of the Louisiana Department of Agriculture and Forestry.

* * *

D. Producers/brokers selling nest run eggs in Louisiana will not be responsible for the \$.02 assessment nor the \$.16 inspection fee. The assessment or fee shall be paid by the packer packaging the eggs.

E. All egg products will be inspected for condition only. All egg products plants shall be responsible for the fees and assessments due on all products entering Louisiana. Additionally, at the discretion of the Department, a dealer/wholesaler selling egg products in Louisiana could be held liable for fees due in lieu of an egg product plant based on the following formula:

1. - 5. ...

F. Packers/producers, processors, and wholesalers shall be required to report and pay assessments and inspection fees on reported volume on a monthly basis. Reports are due on a monthly basis from all egg handlers regardless of who is responsible for paying the assessments and fees. The assessments and fees shall be paid/reported no later than the 15th of the following month. If a report is not received by the due date, a letter shall be sent to the egg handler reminding them of the past due report. If the handler does not report within 10 days from date of the past due notice, the egg handler's license may be suspended and all eggs or egg products found sold, packaged, or processed shall be put off sale and the packer/producer's eggs shall not be sold in Louisiana until such time when all assessments and fees are paid in full.

* * *

H. Dealers-wholesalers shall be required to furnish evidence of origin by invoice on eggs which they handle. Dealers/wholesalers shall report volume of sales monthly on forms furnished by the Department. On sale of eggs and egg products produced out-of-state, the last dealer/ wholesaler/ processor that handles the eggs or egg products before they enter the retail market shall be responsible for paying all fees, if the out-of-state producer/packer/processor has not paid such

fees. Any fees collected from the out-of-state producer/packer that have been paid by the dealer/wholesaler shall be refunded to said dealer/wholesaler. The packer/producer/processor is ultimately responsible for paying all assessments and fees. In-state producers/packers/processors are responsible for all fees of eggs or egg products they have sold in this state. Fees shall be paid not later than the 15th of the following month.

I. Brokers shall be required to furnish evidence of origin by invoice on eggs and egg products which they handle and sell in Louisiana. If shell eggs are nest run, then the packer buying such eggs shall be responsible for fees. If the eggs have been graded, then the packer who graded the eggs shall be responsible. However, if the state is not able to collect the fees from the out-of-state packer then the in-state packer shall be responsible for all fees. No fees shall be charged to place of origin on nest-run eggs; the packer buying the eggs shall be responsible for all fees.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and 3:412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1122 (September 1993), amended LR 23:

§1522. Destination Tolerances; Additional Inspection Fees

A. No eggs shall be sold for resale to the consumers below U.S. Grade B, nor shall any eggs be sold as fresh eggs if the eggs are over 30 days of age. Eggs 30-45 days of age after package date may be returned to the processor or sent to a breaker. Eggs older than 45 days from date of package will be destroyed on the premises in the presence of the inspector/grader.

* * *

E. Any egg handler that fails to pay the additional inspection fee shall have a stop sale placed on this product and any other egg or egg product found in the State until such time as all fees are paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and 3:412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1123 (September 1993), amended LR 23:

§1528. Audits

A. All license holders are subject to yearly audits and must be audited at least once every two years to insure proper reporting of egg and egg product inspection fees and egg assessments to the Louisiana Egg Commission. Audits shall be performed by employees of the Louisiana Department of Agriculture and Forestry. Travel expenses and per diem incurred in conducting out-of-state audits are to be reimbursed to the Department of Agriculture and Forestry by out-of-state license holders. Failure or refusal to pay travel expenses and/or per diem will result in immediate suspension of license and all products found in the State shall have a "STOP SALE" placed on the product and no further sales will be allowed in the State until such time as all expenses are paid.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1124 (September 1993), amended LR 23:

The Rules comply with and are enabled by R.S. 3:405 et seq.

Interested persons may submit written comments, opinions, suggestions or data to James Pruitt, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806, through close of business on December 27, 1996. No preamble regarding the Rules is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Egg Grading and Marketing

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs (savings) to state or local governmental units is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections in the form of license fees are anticipated to increase by approximately \$70 for each of the next three fiscal years.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The license fee charged to egg processors or wholesalers selling egg products will be \$10 annually. Approximately seven businesses will be effected by this Rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is anticipated.

Richard Allen
Assistant Commissioner
9611#034

H. Gordon Monk
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Alcohol and Drug Abuse**

**Co-payment for Urine Drug Screening
(LAC 48:VII.Chapter 9)**

Under the authority of R.S. 36:258(E), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Alcohol and Drug Abuse proposes to adopt rules and regulations to implement a co-payment for urine drug screens. This proposed Rule is applicable to patients receiving treatment services in a state operated outpatient or inpatient alcohol or drug abuse facility.

**Title 48
PUBLIC HEALTH**

**Part VII. Alcohol and Drug Abuse Services
Chapter 9. Co-payment for Urine Drug Screening
§901. Statement of Purpose, Scope and Eligibility**

A. The Department of Health and Hospitals (DHH), Office of Alcohol and Drug Abuse (OADA), will determine a patient's ability to pay a co-payment for urine drug screening (UDS) according to the co-payment sliding fee scale.

B. Any active patient of OADA shall pay a co-payment for a urine drug screen of not more than \$12 per screen to be determined based on the UDS co-payment sliding fee schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 28:771 and R.S. 36:258(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Alcohol and Drug Abuse, LR 23:

§903. Exemptions

A. Any patient eligible to receive Medicaid shall be exempt from the provisions of the UDS co-payment requirements.

B. The UDS co-payment fees shall be exempt from the provisions of R.S. 49:971(A)(3) which provide that no state agency shall increase any existing fee or impose any new fee unless the fee increase or fee adoption is expressly authorized pursuant to a fee schedule established by statute or specifically authorized by federal law, rule or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Alcohol and Drug Abuse, LR 23:

§905. Definitions

The following definitions shall apply to the OADA urine drug screening co-payment for patient billing:

Dependent—all persons dependent on the household income as accepted by the Internal Revenue Service (IRS) for federal income tax purposes. In case of a minor not claimed as a dependent for income tax purposes, the parents are still responsible for payment.

Family—the basic family unit consisting of one or more adults and children, if any, related by blood, marriage, adoption or residing in the same household.

Gross Income—income as determined under Title XIX, Medicaid, guidelines. Gross income shall be rounded down to the nearest \$1,000.

Responsible Person—the patient's parent(s) or guardian if the patient is under the age of 18, unless someone else claims the patient as a dependent, in which case it is that person. If the patient is 18 years of age or older, the patient is responsible for his/her co-payment based on his/her gross family income and allowable deductions, unless claimed as a dependent in which case the claimant becomes responsible for the fee based on the claimant's family income.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Alcohol and Drug Abuse, LR 23:

§907. General Provisions

A. Billing for the UDS co-payment shall be made to the patient or responsible party.

B. A person responsible for the payment of charges for services rendered who refuses or fails to supply the information necessary for accurate determination of the urine drug screen co-payment shall be billed accordingly. Any person who is potentially eligible for Medicaid who refuses to provide evidence of application for said benefits shall be presumed to be able to pay the full charge for services rendered, and shall be billed accordingly.

C. Eligibility will be good for one year. Periodic checks may be made with the responsible person to make charge adjustments as necessary. The responsible person shall be advised of his responsibility to report any change in the family unit composition, income, and employment.

D. Wherever applicable, billing for services rendered shall be sent monthly to the client or responsible person in accordance with the co-payment bill. When a patient's account becomes delinquent, it shall be handled in accordance with DHH Policy Number 4300-76, regarding collection procedures for patient bills.

E. OADA has developed internal management procedures for billing. A copy of these procedures are housed in the Assistant Secretary's Office of OADA.

F. Any individual or family unit who is indigent, as defined herewith shall be eligible for reduced co-payment fees based on the urine drug screen co-payment sliding fee scale. When documented medical bills incurred within the 12 months prior to treatment/service equal or exceed 20 percent of the annual gross family unit income, urine drug screens shall be provided at reduced cost to the family unit. The period of eligibility begins at the date at which liability reaches the 20 percent figure through the end of the calendar year. Such patients with third-party payors shall be provided reduced cost medical services or only that portion of their bill for which no third-party payor is or may be liable.

G. Exceptions may be granted at the discretion of the Assistant Secretary or his designee.

A public hearing on this proposed Rule is scheduled for Monday, December 30, 1996 at 10 a.m. in the Department of Transportation and Development Annex Building, 1201 Capitol Access Road, Fourth Floor Conference Room, Baton Rouge, LA. At this time all interested parties will be afforded the opportunity to submit data, views or arguments, orally or in writing. The deadline for receipt of all comments is 4:30 p.m. the day following the hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Co-payment for Urine Drug Screen

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that a charge of \$60 will be incurred as the cost of publishing the proposed Rule in the *Louisiana Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Office of Alcohol and Drug Abuse's self-generated revenue will increase by \$225,000. There will be no adverse effect on local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Clients who receive drug screens from OADA will pay an average cost of \$6 per screen.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Alton E. Hadley
Assistant Secretary
9611#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Co-payment Sliding Fee Scale for Urine Drug Screen

Income	Dependents				
	1	2	3	4	5+
0 - 2000	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2
2001 - 3000	4	2	2	2	2
3001 - 4000	8	4	2	2	2
4001 - 5000	10	8	4	2	2
5001 - 6000	12	10	8	4	2
6000+	12	12	10	8	4

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:771 and R.S. 36:258(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Office of Alcohol and Drug Abuse, LR 23:

Interested persons may submit written comments to: Alton E. Hadley, Assistant Secretary, Office of Alcohol and Drug Abuse, Box 2790, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding the proposed Rule.

NOTICE OF INTENT

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

Home and Community Based Services Waiver
Program—Mentally Retarded/Developmentally Disabled

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing administers four Home and Community Based Services Waiver Programs.

Participation in each home and community based services waiver is limited to a specific number of participants based on the approval of the waiver application by the Health Care Financing Administration. The Bureau previously adopted an Emergency Rule effective July 13, 1995 which restricted the filling of vacated slots in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver Program to certain specified circumstances (*Louisiana Register*, Volume 21, Number 7). Another Emergency Rule was adopted effective October 10, 1995 that allowed vacated slots in the MR/DD waiver to be filled in accordance with the methodology utilized prior to July 13, 1995, except that the number of slots to be filled could not exceed the total number of filled slots as of September 1, 1995 (*Louisiana Register*, Volume 21, Number 10). These provisions have been continued in force through subsequent emergency rulemaking.

The Bureau has now determined that it is necessary to adopt regulations governing the MR/DD Waiver Program to:

- 1) establish methodology for the assignment of slots vacated by the discharged waiver participants and the 342 previously unoccupied slots; and

- 2) clarify policies in the MR/DD Waiver Program regarding admission and discharge criteria, mandatory reporting requirements and the reimbursement requirement for the prior approval of the plan of care.

The eligibility criteria for the MR/DD Waiver Program shall remain unchanged. The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following regulations governing the MR/DD Waiver Program to:

- 1) establish methodology for the assignment of slots; and
- 2) clarify policies on admission and discharge criteria, mandatory reporting requirements and the reimbursement requirement for the prior approval of the plan of care.

The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration. The assignment of vacated and previously unoccupied waiver slots; admission and discharge criteria; mandatory reporting requirements and reimbursement for services provided prior to the approval of the plan of care shall be determined in accordance with the following guidelines.

Programmatic Allocation of Waiver Slots

The waiting list shall be used to protect the individual's right to be evaluated for waiver eligibility. The Office for Citizens with Developmental Disabilities (OCDD) shall notify the next individual on the waiting list in writing that a slot is available and that they are next in line to be evaluated for possible waiver slot assignment. A copy of the notification letter shall be forwarded to the regional Health Standards Office. The individual then chooses a case manager who will assist in the gathering of the documents needed for both the financial and medical certification eligibility process. If the individual is determined to be ineligible either financially or medically, that individual is notified in writing and a copy of

the notice is forwarded to the regional OCDD Office. The next person on the waiting list is notified as stated above and the process continues until an eligible person is encountered. A waiver slot is assigned to an individual when eligibility is established and the individual is certified. Utilizing these procedures, waiver slots shall be allocated to the targeted groups cited below as follows:

1. When a currently certified participant is discharged from the waiver, the vacated slot shall be available for allocation to the next person on the MR/DD Waiver waiting list who successfully completes the financial and medical certification eligibility process and is certified for the waiver.

2. A minimum of 40 slots shall continue to be available for allocation to foster children in the custody of the Department of Social Services, Office of Community Services (OCS) who successfully complete the financial and medical certification eligibility process and are certified for the waiver. OCS shall be responsible for maintaining the waiting list for these slots; sending notification of an available slot to the next individual on the list; and assisting the individual to gather the documents needed in the eligibility determination process.

3. A maximum of 80 slots shall be available for allocation to the next 80 persons on the MR/DD Waiver waiting list who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

4. A maximum of 160 slots shall be available for allocation to current residents of the Pinecrest Development Center who successfully complete the financial and medical certification eligibility process and are certified for the waiver. These residents will be identified by OCDD through their person-centered planning process and shall be individuals who are high functioning and have the self-determination capacity to live in a less restrictive environment.

5. A maximum of 78 slots shall be available for allocation to current residents of public community homes who successfully complete the financial and medical certification eligibility process and are certified for the waiver. These residents shall be individuals who are high functioning and have the self-determination capacity to live in a less restrictive environment. In addition, the public community home must reallocate its funds to the provision of waiver services.

6. Waiver slots shall no longer be reserved for use as emergency slots nor shall emergency slots be assigned.

Waiver Admission Criteria

Admission to the MR/DD Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid eligibility as determined by the parish BHSF Office;

2. initial and continued eligibility for an ICF-MR level of care as determined by the regional Health Standards Office in consultation with the regional OCDD Office;

3. the plan of care must provide justification that the waiver services are appropriate, cost effective and represent the least restrictive treatment alternative for the individual; and

4. assurance that the health and safety of the individual can be maintained in the community with the provision of reasonable amounts of waiver services as determined by the regional Health Standards Office.

Waiver Discharge Criteria

Participants shall be discharged from the MR/DD Waiver Program if one of the following criteria is met:

1. loss of Medicaid eligibility as determined by the parish BHSF Office;
2. loss of eligibility for an ICF-MR level of care as determined by the regional Health Standards Office in consultation with the regional OCDD Office;
3. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;
4. change of residence to another state with the intent to become a resident of that state;
5. admission to an ICF-MR facility or nursing facility;
6. the health and welfare of the waiver participant cannot be assured in the community through the provision of reasonable amounts of waiver services as determined by the regional Health Standards Office, i.e., the waiver participant presents a danger to himself or others;
7. failure to cooperate in either the eligibility determination process or the performance of the care plan; or
8. continuity of services is interrupted as a result of the participant not receiving waiver services during a period of 14 or more consecutive days. This does not include interruptions in services because of hospitalization.

Mandatory Reporting Requirements

Case managers and waiver service providers are obligated to report changes that could affect the waiver participant's eligibility, including but not limited to those changes cited in the discharge criteria, to either the parish BHSF Office or the regional Health Standards Office within five working days. In addition, case managers and waiver service providers are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and well-being of the waiver participant and completing an incident report. The incident report shall be submitted to the Regional Health Standards Office within five working days of the incident.

Reimbursement of Waiver Services

Reimbursement shall not be made for waiver services provided prior to the date of approval for the plan of care.

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 proposed Rule.

A public hearing will be held on this matter on Friday, December 27, 1996 at 9:30 a.m. in the 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 next business day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community Based Services Waiver Program—Mentally Retarded/Developmentally Disabled Waiver

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will increase state costs by approximately \$1,491,324 for 1996-97; \$1,856,247 for SFY 1997-98; and \$1,949,057 for SFY 1998-99. These projected expenditures represent Medicaid reimbursement for MR/DD waiver services for an additional 342 persons. Also included is the expected expense of promulgating this proposed Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no increase in federal revenue collections expected from this proposed Rule due to capped federal funding for the administration of the Medicaid Program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule will benefit potential MR/DD waiver participants and those providers who provide waiver services to persons in that group. Providers of services to the additional persons included in this waiver are expected to receive approximately \$8,043,011 for SFY 97; \$8,445,162 for SFY 98 and \$8,867,412 for SFY 99.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9611#063

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Recipient Reimbursement During Retroactive Eligibility

The Department of Health and Hospitals, Bureau of Health Services Financing, proposes to adopt the following Rule in the Medicaid Program as authorized by R.S. 46:153. This proposed Rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Financing currently provides direct reimbursement to enrolled providers of medical care, supplies and services delivered to persons eligible for Medicaid coverage. In order to receive Medicaid reimbursement for services rendered prior to the individual's certification for Medicaid, the provider must refund the recipient's payment, if any, for services and submit a claim for reimbursement to the fiscal intermediary in accordance with program regulations.

On May 8, 1995, the United States District Court for the Eastern District of Louisiana issued a judgment requiring the Department of Health and Hospitals to provide repayment in some form to recipients for medical care, supplies and services rendered during the retroactive coverage period established by 42 U.S.C. Section 1396a(a)(34) when such care, supplies or services have been paid in whole or part by the recipient prior to certification. Therefore, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt the following Rule to comply with the judgment of the U.S. District Court. This Rule provides for the direct reimbursement to persons found eligible for Medicaid benefits beginning February 15, 1995 for their payments to enrolled providers for services covered by the Medicaid Program.

Proposed Rule

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt the following provisions to establish and govern direct reimbursement to a Medicaid eligible for his payment(s) made to any Medicaid-enrolled provider for medical care, services and supplies delivered during the recipient's period of retroactive eligibility and prior to receipt of the first medical eligibility card (MEC). Reimbursement shall be made only in accordance with all applicable federal and state regulations.

General Provisions

A. Reimbursement shall be made only for payments made to providers of medical care, services and supplies who were enrolled in the Medicaid Program at the time of service.

B. Reimbursement shall be made only for medical care, services and supplies covered by the Medicaid Program at the time of service.

C. Reimbursement shall be made only for medical care, services and supplies delivered during a retroactive eligibility period and prior to receipt of the recipient's first Medicaid Eligibility Card (MEC).

D. Reimbursement shall be made only up to the maximum allowable Medicaid rate for the particular service(s) rendered.

E. Reimbursement shall be provided only under the following conditions.

Reimbursement shall be made only for eligibles certified for Medicaid coverage beginning February 15, 1995. Reimbursement shall be made for all bills, from any Medicaid-enrolled provider, for medical care, services and supplies covered by the Medicaid Program and rendered during the three months prior to application, as well as bills paid during the period from application to certification.

F. The Medicaid recipient must submit the following documentation to the Bureau in order to receive reimbursement:

Proof of payment shall be a receipt or similar evidence of payment.

G. Reimbursement for services rendered during any retroactive eligibility period and prior to receipt of the initial MEC for Medicaid eligibles certified beginning February 15, 1995 through the effective date of this Rule shall be made in accordance with the following requirements:

Proof in accordance with F above, along with the recipient's Medicaid identification number must be presented

to the local Bureau of Health Services Financing (Medicaid) Office by December 30, 1996.

H. Reimbursement of payments for services rendered during any retroactive eligibility period or prior to receipt of the recipient's initial MEC from the effective date of this Rule and henceforth shall be made in accordance with the following requirements:

1) A recipient's intention to make a request for reimbursement must be made known to the local Bureau of Health Services Financing (Medicaid) Office within 30 days from the date of the letter sent to the recipient advising him of his right to request reimbursement.

2) Proof in accordance with F above must be presented to the local Bureau of Health Services Financing (Medicaid) Office within 15 days of the request for reimbursement. If the recipient requests an extension on this time limit, it will be provided.

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 proposed Rule.

A public hearing will be held on this matter on Friday, December 27, 1996 at 9:30 a.m. in the 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 following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Recipient Reimbursement During Retroactive Eligibility

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule and the associated Emergency Rule will increase state costs by approximately \$245,735 for 1995-96; \$73,370 for SFY 1996-97; and \$77,050 for SFY 1998-99. Increased state costs of approximately \$150 for printing of this proposed Rule is included under the increased costs for the first year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no increase in federal revenue collections for the federal share of the costs expected from the implementation of this proposed Rule due to the capped federal funding for the state's administration of the Medicaid Program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Medicaid eligibles who are determined retroactively eligible and who have paid receipts for Medicaid covered services during the retroactive eligibility period will be compensated in accordance with the applicable Medicaid reimbursement rate for these services. The estimated revenue impact to the Medicaid

eligibles described above will be approximately \$1,324,620 for SFY 1997; \$333,804 for 1998 and \$350,547 for SFY 1999.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9611#062

H. Gordon Monk
Staff Director
LegislativeFiscal Office

NOTICE OF INTENT

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

Reimbursement for Medicare Part B Claims

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

Bureau of Health Services Financing provides reimbursement to providers enrolled in the Medicaid and the Medicare Part B Programs for professional services furnished to dually eligible Medicare/Medicaid recipients. Current reimbursement methodology limits the Medicaid payment of the co-insurance and deductible when the Medicare reimbursement for a service is greater than the Medicaid maximum payment rate for that service. The Bureau proposes to pay the full co-insurance and deductible on Medicare Part B crossover claims for professional services rendered to dually eligible Medicare/Medicaid recipients.

Proposed Rule

Effective for dates of service on or after July 1, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall reimburse the full co-insurance and deductible on Medicare Part B crossover claims for professional services rendered to dually-eligible Medicare/Medicaid recipients.

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 proposed Rule. A public hearing on this proposed Rule is scheduled for Friday, December 27, 1996 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reimbursement for
Medicare Part B Claims**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will increase state costs by approximately \$6,005,715 for SFY 1998; \$6,185,886 for SFY 1999; and \$6,371,464 for SFY 2000. In addition, there is administrative expense of promulgating this proposed Rule for state fiscal year 1997 of \$150.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no increase in federal revenue collections expected for the administrative expense from this proposed Rule due to capped federal funding for the state's administration of the Medicaid Program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that the providers of Medicare Part B services will experience the reimbursement increases of approximately \$27,323,546 for SFY 1997; \$28,143,252 for SFY 1998; and \$28,987,550 for SFY 1998 from the implementation of this proposed Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment is unknown.

Thomas D. Collins
Director
9611#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

State-Funded Medically Needy Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following Rule under the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing previously administered the Medically Needy Program under the Title XIX State Plan pursuant to the Social Security Act. The Department has determined that there are insufficient federal funds available under the federal appropriation for implementation of Title XIX of the Social Security Act for Louisiana to continue the administration of the Medically Needy Program and, as a result, terminated the Program effective June 30, 1996 (*Louisiana Register*, Volume 22, Number 6). Executive Order 96-17 authorized the establishment of a State-Funded Medically Needy Program; therefore the Department established the State-Funded

Medically Needy Program in compliance with this Order by adopting an Emergency Rule effective July 1, 1996 (*Louisiana Register*, Volume 22, Number 7). The State-Funded Medically Needy Program is limited to individuals who were certified for the Title XIX Medically Needy Program or have a pending application under the Title XIX Medicaid Program and are subsequently found eligible for Title XIX Medically Needy for June 1996. The State-Funded Medically Needy Program incorporates the same recipient eligibility criteria and scope of services which previously existed under the Medically Needy Program of the Title XIX State Plan except as otherwise provided herein. The Department has now determined based on legislative recommendation that it is necessary to expand the State-Funded Medically Needy Program to:

1) provide coverage for persons who are not continuously eligible for benefits under the State-Funded Medically Needy Program in order to assure continuity of their medical care; and

2) establish an eligibility determination process for applicants with specified medical or income conditions and to provide for their certification based on the Title XIX Medically Needy Program.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing continues and re-establishes the State-Funded Medically Needy Program which shall be governed by the following provisions.

I. General Provisions

The State-Funded Medically Needy Program shall be administered in accordance with requirements of Title XIX of the Social Security Act for the Medically Needy Program under the Act except as described below.

A. Eligibility

1. Coverage under this Program shall be limited to individuals who are certified for the Title XIX Medically Needy Program or have a pending application for participation under the Title XIX Medicaid Program and are subsequently found eligible for Title XIX Medically Needy Program for June 30, 1996. Recipients who were certified as of June 30, 1996 may reapply through June 30, 1997. They must meet all the federal eligibility criteria under the Title XIX Medically Needy Program in order to maintain or to re-establish their eligibility status under the State-Funded Medically Needy Program.

2. Recipients who are determined to be potentially eligible under any Title XIX eligibility category or any other benefit must take all appropriate steps to pursue that eligibility including applying for coverage and providing the necessary information to determine eligibility for the Title XIX category or other benefit.

3. Eligibility for the State-Funded Medically Needy Program will be terminated under any one of the following circumstances:

- a. the recipient is determined eligible under a Title XIX category or other benefit;
- b. the recipient refuses to apply for coverage or cooperate in the eligibility determination process;

c. the recipient no longer meets the required criteria of health condition or age; or

d. the recipient no longer meets the eligibility requirements of the Title XIX Medically Needy Program terminated on June 30 1996.

4. The State-Funded Medically Needy Program shall provide for an eligibility determination process for the following persons:

a. persons in a nursing facility whose countable income exceeds 300 percent of the Supplemental Security Income (SSI) federal benefit rate;

b. children under the age of one who are receiving critical care services (neonates);

c. children through age 17 with a diagnosis of cancer;

d. persons with renal (kidney) failure who require hemodialysis treatment.

5. Applicants listed above who meet the eligibility criteria of the Title XIX Medically Needy Program shall be determined eligible no earlier than October 8, 1996. There shall be no retroactive eligibility period for persons determined eligible under the items a. - d. listed above.

B. Services. The scope of services and reimbursement for the covered services shall be provided in accordance with the federal and state regulations that previously governed the Title XIX Medically Needy Program administered by the Bureau of Health Services Financing.

C. Appeal Rights. Applicants who are denied eligibility and recipients who lose their eligibility under the State-Funded Medically Needy Program shall be afforded the opportunity to appeal the agency's decision in accordance with the Administrative Procedure Act. There shall be no continuation of benefits pending appeal.

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 this proposed Rule.

A public hearing on this proposed Rule is scheduled for Friday, December 27, 1996, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: State-Funded Medically Needy Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will result in increased state expenditures for service delivery and administration of the State-Funded Medically Needy Program by approximately \$22,550,260 for SFY 1996-1997; \$15,931,328 for SFY 1997-1998; and \$16,727,894 for SFY

1998-1999. The printing cost for the promulgation of this proposed Rule is included under the estimate for the first year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no increase in federal revenue collections expected from this proposed Rule as this Program is totally financed by state revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that the providers enrolled in the Medicaid Program will experience state expenditure increases of approximately \$22,550,000 for SFY 1996-1997; \$15,931,328 for SFY 1997-1998; and \$16,727,894 for SFY 1998-1999 as payments for their services to recipients of the State-Funded Medically Needy Program. The recipients of this Program will receive their medically necessary services through state funding with no personal costs for covered services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9611#070

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

**Record Preparation Fees and Quarterly
Submissions (LAC 42), Rules 109 and 110**

The Louisiana Gaming Control Board hereby gives notice that it intends to adopt initial Rules 109 and 110 in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

The text of these proposed Rules may be viewed in its entirety in the Emergency Rule Section of the October 1996 issue of the *Louisiana Register*, pages 950-951.

All interested parties may contact Tom Warner, Deputy Director, Attorney General's Gaming Division, telephone (504) 342-2465 and may submit written comments through December 10, 1996, to 339 Florida Boulevard, Suite 402, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: LAC 42 Louisiana Gaming**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No implementation costs (savings) are estimated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that implementation of Rule 109 will result in revenue collections of \$20,000 per year based upon 200 hearings at \$100 average fees collected per hearing.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs and/or economic benefits to directly affected persons or nongovernmental groups is estimated other than the fee provided in Rule 109, of \$100 estimated record preparation costs per individual.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9611#024

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Revenue and Taxation
Tax Commission**

Ad Valorem Tax (LAC 61:V.Chapters 7-31)

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 1997 (1998 Orleans Parish) tax year.

The full text of these proposed Rules may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed Rules until 4 p.m., December 6, 1996, at the following address: E. W. "Ed" Leffel, Property Tax Specialist, Louisiana 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 \$6,000 for the 1996-97 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 decrease 1997 certain real and personal property assessments for property of similar age and condition in comparison with equivalent assessments in 1996. Composite multiplier tables for valuation tables for assessment of oil and gas properties will generally decrease by and estimated five percent on wells and increase by an estimated

two percent on drilling rigs. Use Value assessed marsh lands will generally decrease by an estimated 20 percent. The net effect of these revisions is estimated to decrease assessments by 1.4 percent and tax collections by \$4,782,000 on the basis of existing statewide average millage. However, local governmental units have the authority to offset all or a portion of this decrease 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 \$273,000 from public service companies, and \$72,000 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 lower in 1997 than in 1996. 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 \$345,000 to be paid by public service property owners, financial institutions and insurance companies for 1996/97.

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.

James D. Peters
Acting Administrator
9611#072

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

**Reporting Arrearages to Credit Bureaus
(LAC 67:III.2541 and 2753)**

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.Subpart 4, Support Enforcement Services (SES), the Child Support Enforcement Program.

Pursuant to the Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the state is required to report the names of noncustodial parents who are delinquent in the payment of child support, and the amount of overdue support to credit reporting agencies, after due process. This Rule is being amended to strengthen the Agency's role in the enforcement of support. Previously promulgated as §2753, the Section is being renumbered.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter L. Enforcement of Support Obligations

§2541. Information Released to Consumer Reporting Agencies

The Support Enforcement Program will report periodically to credit bureaus/consumer reporting agencies, the name of any noncustodial parent (absent parent) who is delinquent in the payment of support, and the amount of overdue support owed by such parent. The Agency shall provide due process to the noncustodial parent providing such parent with advance notice and a reasonable opportunity to contest the accuracy of such information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(D), (F)(4), (F)(5), (M) and 45 CFR 303.105, P.L. 104-193.

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 22:117 (February 1996), LR 23:

Chapter 27. General Program Administration

Subchapter B. Notice of Collection of Assigned Support

§2753. Information Released to Consumer Reporting Agencies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(D), (F)(4), (F)(5), (M) and 45 CFR 303.105, P.L. 104-193.

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 22:117 (February 1996), LR 23:

Interested persons may submit written comments within 30 days to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-9065. She is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on December 30, 1996, at the Department of Social Services, 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).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reporting Arrearages to Credit Bureaus**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
- This procedure will reflect only a slight change in the time frame for reporting. Changes will be made to enhance policy on consumer reporting. The only implementation cost to state

government will be the cost of publishing the Rule and the printing of the policy revision for staff. This is estimated to be \$90. There is no cost to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This procedure is currently in effect. The change means that there is no delay in reporting arrearages to credit bureaus/consumer reporting agencies. No increased effect on revenue collections is anticipated.

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 impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9611#075

H. Gordon Monk
Staff Director
LegislativeFiscalOffice

NOTICE OF INTENT

**Department of Transportation and Development
Office of Engineering**

**Utility Relocation Assistance Funding
(LAC 70:III.1103)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to adopt LAC 70:III.1103 in accordance with R.S. 48:381(C) et seq.

Title 70

Transportation

Part III. Highways/Engineering

Chapter 11. Utility Relocation Assistance Funding

§1103. Additional Information to be Supplied by Applicants for Utility Relocation Assistance Funding (URAF)

A. A copy of the utility owner's most recently completed audit report must be provided to DOTD. If no audit has been performed, the utility owner should initiate one. The certification process may not begin until this report is submitted.

B. A copy of the utility owner's unaudited financial statements covering the period from the date of the last audited financial statements to the current date must be provided to DOTD.

C. A copy of the utility owner's budget, including any amendments, for the current fiscal year must be provided to DOTD.

D. A listing of encumbrances that are payable from the utility owner's current year earnings must be provided to DOTD. For the purpose of this certification, encumbrances are considered to be those items for which the utility owner has incurred an obligation to expend current year earnings, plus 10 percent of the current year's revenue as a reserve.

E. A signed representation letter prepared on the utility owner's letterhead must be provided to DOTD. It must state:

1. that the utility owner is familiar with the provisions of R.S. 48:831;

2. that the utility owner has not violated any of the provisions of R.S. 48:381 in the past;

3. if the utility owner has received URAF funding from DOTD in prior years, the utility owner must meet the following requirements:

a. it must state that it has received prior URAF funding;

b. it must state that it has :

i. not located facilities longitudinally in state highway right-of-way since last receipt of URAF funding if a balance is outstanding; or

ii. facilities have been placed longitudinally in highway right-of-way and URAF funds have been reimbursed to DOTD.

F. The utility owner is responsible for the presentation of the financial statements and other information provided and for insuring that the information is complete and accurate.

G. The financial information provided must be taken from verifiable records. The budget information must be based on estimates derived from the financial statements.

H. The utility owner must certify that it has no other unpaid obligations to the State of Louisiana.

I. If the utility owner fails to satisfactorily complete the certification process, the utility owner may request a second certification review after one year from date of the first certification report. The request for the second review must be made before the starting date of construction. The request for the second review should be addressed to the DOTD Audit Section. When in the best interest of DOTD, the time period between the first failure of certification and the second request for certification may be modified by DOTD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 22:

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 the Notice of Intent to: John Collins, Headquarters Utilities and Permits Engineer, Box 94245, Baton Rouge, LA 70804-9245, (504) 379-1853.

Frank M. Denton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Utility Relocation Assistance Funding**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs for the Department of Transportation and Development. The Department of Transportation and Development has sufficient staff to implement this Rule. There will be no implementation costs for local governmental units. The Rule is necessary in order to implement the provisions of Act 167 of 1993 amending R.S.

48:381(C). It is anticipated that less than one audit per month will be performed thereby making the cost to the Department of Transportation and Development negligible. The program has been in place in the Department of Transportation and Development since 1994.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections. No fees are charged for the audits since they are performed "in house."

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits for directly affected persons or nongovernmental groups. This program only affects governmental entities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Frank M. Denton
Secretary
9611#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry
Forestry Commission

Department of Revenue and Taxation
Tax Commission

Timber Stumpage Values—Adjudicatory Hearing

The Louisiana Forestry Commission and the Louisiana Tax Commission will hold an adjudicatory hearing beginning at 10 a.m., December 9, 1996, at the Department of Agriculture and Forestry, Group Benefit's Second Floor Conference Room, located at 5825 Florida Boulevard, Baton Rouge, LA, relative to the setting of timber stumpage values for severance tax purposes for tax year 1997 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

9611#033

POTPOURRI

Department of Agriculture and Forestry
Forestry Commission

Department of Revenue and Taxation
Tax Commission

Timber Stumpage Values—Joint Meeting

The Louisiana Forestry Commission and the Louisiana Tax Commission will hold a joint meeting beginning at 1 p.m., December 9, 1996, at the Department of Agriculture and Forestry, Group Benefit's Second Floor Conference Room, located at 5825 Florida Boulevard, Baton Rouge, LA, relative to the setting of timber stumpage values for severance tax purposes for tax year 1997 pursuant to R.S. 47:633.

All interested persons are invited to attend.

Billy Weaver, Chairman
Forestry Commission

Malcolm Price, Chairman
Tax Commission

9611#032

POTPOURRI

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Horticulture Commission

Retail Floristry Exam

The next retail floristry examination will be given January 27-31, 1997, at 9:30 a.m., at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is December 26, 1996. No applications will be accepted after September 24, 1996.

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 the Office prior to December 26, 1996. Please refer questions to (504) 925-7772.

Bob Odom
Commissioner

9611#031

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Restoration Planning—Marathon Pipe Line Spill

The Louisiana Department of Environmental Quality, Louisiana Department of Natural Resources, Louisiana Department of Wildlife and Fisheries, Louisiana Oil Spill Coordinator's Office and the U.S. Department of the Interior, have determined that the impacts of the May 24, 1996, Blind River discharge of unleaded gasoline by Marathon Pipeline Company warrant conducting a natural resource damage assessment, *ie.*, restoration planning.

Trustee Authority

Pursuant to 33 U.S.C. §2702 and §2706(e), Executive Order 12777, and the National Contingency Plan, 40 CFR Part 300, the U.S. Department of the Interior and the natural resource trustees of the state of Louisiana, to wit, the Louisiana Department of Environmental Quality, the Louisiana Department of Natural Resources, the Louisiana Oil Spill Coordinator's Office and the Louisiana Department of Wildlife and Fisheries, are the designated natural resource trustees. Pursuant to R.S. 30:2460, the State of Louisiana Oil Spill Contingency Plan, September 1995, describes the state trust resources which include the following: vegetated wetlands, surface waters, ground waters, air, soil, wildlife, aquatic life and the appropriate habitats on which they depend. Trust natural resources of the Department of the Interior were described in the National Contingency Plan, 40 CFR §300.600(b)(2-3), as including the following and their supporting ecosystems: migratory birds, anadromous fish, endangered species and marine mammals, federally owned minerals, certain federally managed water resources, and natural resources located on, over or under land administered by the Department.

Following notice of the discharge, the natural resource trustees made the following determinations required by 15 C.F.R. §990.41 based on information received from the Federal and State On Scene Coordinators:

1. An incident has occurred, as defined in 15 C.F.R. §900.30, in that petroleum was discharged into the waters of Louisiana.
2. The discharge was not permitted under state, federal, or local law or from a public vessel or from an onshore facility subject to the Trans-Alaska Pipeline Authority Act 43 U.S.C. 1651 *et seq.*; and
3. The trustees listed above have determined that natural resources under their trusteeship have been or may have been injured as a result of this discharge.

Based on the above determination, the natural resource trustees have made the decision that they have the necessary jurisdiction to proceed with restoration planning.

Site and Release Information

1. At 0215 on May 24, 1996, Marathon Pipe Line Company personnel discovered a spill from a 20" pipeline which transfers unleaded gasoline from Marathon's Refinery in Reserve, Louisiana, to the Marathon Terminal at Zachary,

Louisiana. At the time of that report, 474,936 gallons of unleaded gasoline had been released from a rupture in the line located about 3 miles northwest of the intersection of LA 20 and LA 61, near Gramercy, Louisiana. A portion of the gasoline was retained in a low area along the pipeline right-of-way; however, an unknown quantity flowed southwest into the swamp and southeast into Blind River. The spill affected the Blind River, several tributaries, drainage and oil field canals, and the surrounding freshwater swamp. A Marathon representative indicated during the response phase that the released product was from a Marathon Pipe Line Company line. Marathon subsequently assumed responsibility for the spill and its effects on natural resources of the affected area.

2. The Blind River swamp is characterized by bald cypress, tupelo, red maple, palmetto, willow and duckweed. Fish species present include, but are not limited to: gar, bowfin, freshwater drum, catfish, shad, bass and others. Wildlife species present include, but are not limited to: white tailed deer, alligator, various species of turtles, herons, egrets, ducks, raccoons, nutria, among others. The area is used extensively for fishing, hunting, boating, crawfishing, and other commercial and recreational activities.

Determination to Conduct Restoration Planning

For the reasons discussed below, the natural resource trustees have made the determinations required by 15 CFR §990.41-42, and are providing notice pursuant to 15 CFR §990.44, that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Natural Resource Injuries

Injuries to natural resources and impairment of natural resource services have resulted or are likely to result from this incident. A typical Garyville regular unleaded gasoline, the product released in this incident, contains constituents (pentanes, butanes, hexanes, naphthalenes, toluene and others) which have, or may have, adversely affected, or may yet adversely affect resources under State and USDOJ trusteeship. Natural resources injured as a result of the spill and spill response include, but are not limited to, benthic communities, water quality, vegetated wetlands (based on observed mortality of wetland vegetation in the area of the spill), and recreational opportunity.

- Gar, bowfin, freshwater drum, deer, alligators, turtles, ducks, herons, egrets, raccoons, nutria were among the animal species for which post-spill mortality was observed by persons at the scene of the incident. Observations of browned vegetation and animal carcasses brought to the collection point represent only a subsample of living renewable natural resources which are or may be injured by the released gasoline.

Response Actions

The nature of the discharge prevented satisfactory removal of the discharged gasoline, although, evaporation and natural degradation have lowered the concentration of gasoline in the impacted area. Response actions have not addressed, or are not expected to address the injuries resulting from the release.

Potential Assessment Procedures

It has not been determined at this time which assessment procedures will be used to evaluate the natural resource injuries and lost services or define the appropriate type and scale of restoration necessary to properly compensate the public; however, the trustees can use field studies to document the extent and longevity of the injury to wetland and aquatic habitats, data collected as part of the preassessment, laboratory toxicity studies, as well as other accepted methods to determine the nature and extent of injuries and associated damages to natural resources under their trusteeship. All assessment procedures will meet the requirements of 15 CFR §990.27.

Potential Restoration Actions

Potential restoration actions relevant to the expected and observed injuries include, but are not limited to:

1. Stocking of fish species and alligators into the Blind River and tributaries;
2. Water quality enhancement projects for the portion of the Blind River affected by the discharge;
3. Planting appropriate wetland species along river banks to replace vegetation injured by the spill.
4. Acquisition and improvement of wetland properties in the Blind River watershed;
5. Conservation easements.

Public Involvement

Pursuant to 15 C.F.R. §990.14(d), the Trustees seek public involvement in restoration planning for this petroleum discharge, through public review of and comment on the documents contained in the administrative record, which is maintained in the Louisiana Oil Spill Coordinator's Office, as well as on the Draft and Final Restoration Plans when they have been prepared.

Comments should be sent to Roland J. Guidry, Louisiana Oil Spill Coordinator, Office of the Governor, Box 94095, Baton Rouge, LA 70804, telephone (504) 922-3230.

The Louisiana Oil Spill Coordinator, as the Lead Administrative Trustee in this incident, and on behalf of the natural resource trustees of the State of Louisiana and the U.S. Department of the Interior, pursuant to the determinations made above, hereby provides Marathon Oil Company this Notice of Intent to conduct restoration planning and invites their participation in the conduct of that restoration planning.

Roland J. Guidry
Oil Spill Coordinator

9611#036

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

Examination Dates

The Board of Veterinary Medicine will administer the national and state examination for licensure to practice veterinary medicine as follows:

Examination	Date	Deadline to Apply
National Board	Tuesday, April 8, 1997	Friday, February 21, 1997
Clinical Competency Test	Wednesday, April 9, 1997	Friday, February 21, 1997
State Board	First Tuesday of Every Month	Four weeks prior to desired exam date

Applications for all examinations must be received on or before the deadline. Applications and information may be obtained from the Board Office at 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801 or by calling (504) 342-2176.

Virginia A. Anthony
Interim Administrator

9611#035

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 No.	Serial No.
Deblin Oil & Gas, Inc.	Tiger Pass	LA Fruit Co	002	116868
Deblin Oil & Gas, Inc.	Tiger Pass	J S Abercrombie et al	001	090463
Fair-Link Properties, Inc.	North Crowley	Leonard J Habetz et al B	001	215940
Regal Oil Company	Sunshine	Rene G LeBlanc et al	001	052242
C. R. Schuster	Caddo-Pine Island	Caddo Levee Board A	011	056385
Sun Resources	North Cankton	VUA; Credeur et al	002	166091
Merl Wiggins et al	University	Knox-Amiss-Farnbacher	002	022742
Merl Wiggins et al	University	Knox-Amiss-Farnbacher	A-2	032061
Merl Wiggins et al	University	Knox-Amiss-Farnbacher	008	035624

George L. Carmouche
Commissioner of Conservation

9611#030

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