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Executive Orders

EXECUTIVE ORDER MJF 99-38

Compensation of Board of Parole

WHEREAS, Act No. 900 of the 1999 Regular Legislative Session (hereafter "Act"), effective August 15, 1999, changed the manner in which the actual annual salaries of the chairman, vice-chairman, and members of the Board of Parole (hereafter "Board") are determined;

WHEREAS, the Act amended R.S. 15:574.2(A)(3) to change the annual salaries of the chairman, vice-chairman, and members of the Board from a pre-fixed amount to an amount "authorized by executive order of the governor" which is subject to the statutory limits provided in R.S. 15:574.2(A)(3); and

WHEREAS, R.S. 15:574.2(A)(3), as amended, provides that the Board's chairman shall receive an annual salary not to exceed fifty thousand dollars (\$50,000), vice-chairman shall receive an annual salary not to exceed (\$47,000), and members shall receive an annual salary not to exceed forty-four thousand dollars (\$44,000);

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

SECTION 1: Pursuant to the provisions of R.S. 15:574.2(A)(3), as amended by Act No. 900 of the 1999 Regular Legislative Session, effective August 15, 1999, the following annual salaries are authorized for the chairman, vice-chairman, and members of the Board of Parole (hereafter "Board"):

A. The Board's chairman shall receive an annual salary of forty-five thousand one hundred dollars (\$45,100);

B. The Board's vice-chairman shall receive an annual salary of thirty-eight thousand eight hundred dollars (\$38,800); and

C. All other Board members shall receive an annual salary of thirty-seven thousand eight hundred dollars (\$37,800).

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

SECTION 3: The provisions of this Order shall be retroactive to August 15, 1999, and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 17th day of August, 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9909#005

EXECUTIVE ORDER MJF 99-39

Office of Community Programs

WHEREAS, Executive Order No. MJF 99-14, signed on March 26, 1999, established the Office of Community Programs within the Office of the Governor; and

WHEREAS, Executive Order No. MJF 99-33, signed on July 9, 1999, transferred an additional division of the Office of the Governor to the Office of Community Programs; and

WHEREAS, it is necessary to amend Executive Order No. MJF 99-14, as amended by Executive Order No. MJF 99-33, to transfer another division of the Office of the Governor to the Office of Community Programs;

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

SECTION 1: Section 2 of Executive Order No. MJF 99-14 is amended to provide as follows:

The Office shall be composed of the following agencies and divisions of the Office of the Governor:

A. Office of Disability Affairs (R.S. 46:2581, *et seq.*);

B. Office of Elderly Affairs (R.S. 46:931, *et seq.*);

C. Office of Indian Affairs (R.S. 46:2301, *et seq.*);

D. Office of Municipal Affairs;

E. Louisiana State Interagency Coordinating Council for Child Net (R.S. 17:1979 and R.S. 36.4(R));

F. Office of Rural Development (R.S. 3:314, *et seq.*);

G. Louisiana Abstinence Education Project (Executive Order No. MJF 98-11, as amended by Executive Order No. MJF 99-13);

H. Louisiana State Troops to Teachers Placement Assistance Program (Memorandum of Agreement dated February 2, 1995);

I. Office of Urban Affairs and Development (Executive Order No. MJF 96-47);

J. Office of Women's Services (R.S. 46:2521, *et seq.*);

K. Governor's Office of Safe and Drug Free Schools and Communities; and

L. Administrative Program for the Drug Policy Board.

SECTION 2: Executive Order No. MJF 99-33, signed on July 9, 1999, is terminated and rescinded.

SECTION 3: All other sections and subsections of Executive Order No. MJF 99-14 shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 18th day of August, 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9909#006

EXECUTIVE ORDER MJF 99-40

Louisiana Commemorative Coin Advisory Commission

WHEREAS, Executive Order No. MJF 99-36, signed on July 30, 1999, established the Louisiana Commemorative Coin Advisory Commission; and

WHEREAS, it is necessary to amend Executive Order No. MJF 99-36 in order to add additional members to the Commission;

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

SECTION 1: Section 4 of Executive Order No. MJF 99-36 is amended to provide as follows:

The Commission shall be composed of a maximum of eighteen (18) members appointed by, and serving at the pleasure of, the governor. The membership of the Commission shall be selected as follows:

A. The governor, or the governor's designee;

B. The state treasurer, or the state treasurer's designee;

C. A collector of Louisiana currency printed subsequent to Louisiana's admittance into the Union in 1812;

D. A collector of coins minted at the New Orleans Mint; and

E. A minimum of seven (7) and a maximum of fourteen (14) citizens of the state of Louisiana knowledgeable about rare coins and/or the geography, flora, fauna, history, political development, and/or natural heritage of the state of Louisiana selected from the seven (7) congressional districts of Louisiana.

SECTION 2: All other sections and subsections of Executive Order No. MJF 99-36 shall remain in full force and effect.

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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 18th day of August, 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9909#007

EXECUTIVE ORDER MJF 99-41

School Finance Commission

WHEREAS, having a quality public education system is essential for the long-term success of Louisiana's economy;

WHEREAS, there is a constitutional obligation to provide a minimum foundation of education for all public elementary and secondary schools;

WHEREAS, the state has fulfilled its commitment to fully fund the state share of the current minimum foundation program (hereafter "MFP") formula;

WHEREAS, there have been a number of resolutions enacted by the legislature requesting the study of various aspects of the current MFP; and

WHEREAS, the State Board of Elementary and Secondary Education (hereafter "BESE") has indicated a commitment to examine the current MFP to determine possible improvements;

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

SECTION 1: The School Finance Commission (hereafter "Commission") is created as a partnership of the Office of the Governor, the Louisiana Legislature, and BESE.

SECTION 2: The duties and functions of the Commission shall include an analysis of financing the public

education system in Louisiana and making written recommendations regarding said financing including, but not limited to, addressing the following issues:

A. Evaluating the viability of the current goals of the MFP, determining whether there is a need to modify, delete or supplement the current goals, including whether it is appropriate or desirable to add goals or targets related to:

1. Teacher salaries;
2. The School and District Accountability System or related objectives;
3. Remediation programs; and
4. Other classroom based supports.

B. The adequacy of funding the costs of a minimum foundation of education for children in Louisiana, including the following:

1. The adequacy of the method used to determine the cost of educating our children, including identification of excluded costs;
2. Whether to use per pupil calculations or specified inputs to determine the cost;
3. The weighting of factors, including the adequacy of existing weighted factors; and
4. Whether to delete existing weighted factors or add other weighted factors such as teacher salaries, remediation programs, alternative school programs.

C. The equitable distribution of the funds to the local school districts, including the following:

1. The equity of current state and local support requirements and the barriers to obtaining larger levels of support;
2. Whether or not to eliminate the status of certain districts (i.e., hold harmless districts) and, if so, how to do so;
3. Addressing the concern that hold harmless districts do not receive new monies with increased formula funding;
4. The method of determining the balance between local and state support, including the possibility of having state funds being used for certain expenditures and local funds for other expenditures;
5. Whether the existing formula adequately evaluates the relative wealth of local school districts; and
6. The goal of Level 2 funding and the effectiveness of achieving that goal.

D. Whether to direct, target or mandate the uses or application of existing or new funds provided by the state including, but not limited to, the following:

1. The use of Level 3 funding and its impact on hold harmless local school districts;
2. The impact of line item appropriations on hold harmless local school districts;
3. In the event new funds are added to the MFP, whether the MFP should direct local districts to use larger percentages of new funding for specific purposes such as for teacher salaries, accountability, remediation programs, and other classroom based supports;
4. The desirability of having state funds being dedicated for certain expenditures and local funds dedicated for other expenditures; and
5. The impact of existing BESE or legislative mandates on the ability of the local school districts to expend existing funds which are already directed, targeted or mandated, such as: state minimum teacher salary schedule

laws, class size requirements, classroom instruction requirements, special education requirements, student remediation requirements, School and District Accountability requirements, transportation laws, and school food service requirements.

E. Modifying the MFP such that funding follows students to the place where they are being educated, by reviewing the following: part time student funding, multiple student count dates, and other means.

F. Greater simplification of the MFP formula, to the extent consistent with the goals of the MFP.

G. Evaluation of the existing method of providing legislative input in the development of the MFP, and developing appropriate methods to achieve greater legislative input.

SECTION 3: The Commission shall begin work by September 30, 1999, and submit a series of at least three reports. The first shall be completed by March 1, 2000, and offer recommendations on the issues set forth in Section 2 related to ways that the MFP could be used to assure teachers and other employees' salaries reach levels comparable to applicable SREB states; the issues related to enhanced legislative input; simplification of the formula; the impact of existing state mandates; student counts; and weighted factors. The final report shall be due by March 1, 2001, and shall address all remaining issues set forth in Section 2 not covered in the initial reports.

SECTION 4: The Commission shall be composed of twenty-seven (27) members who have committed to attend all meetings of the Commission and who shall be appointed by the governor, president of the Senate, speaker of the House of Representatives, president of BESE, or as noted below.

A. Six (6) members appointed by the governor, including:

1. The chief of staff, or the chief of staff's designee;
2. The commissioner of administration, or the commissioner's designee; and
3. Four (4) business, university, or community representatives.

B. Six (6) members representing the Louisiana Legislature, including:

1. Three (3) members of the Senate as appointed by the president of the Senate; and
2. Three (3) members of the House of Representatives as appointed by the speaker of the House of Representatives.

C. Twelve (12) members as appointed by the president of BESE, including:

1. Five (5) BESE members;
2. The superintendent of the Department of Education, or the superintendent's designee; and
3. Six (6) school district or local school board representatives.

D. Three (3) teacher representatives, one each appointed by the following organizations: Louisiana Federation of Teachers, Louisiana Association of Educators, and Associated Professional Educators of Louisiana.

SECTION 5: The governor shall appoint the chair from its membership. Any other officers shall be elected by the Commission.

SECTION 6: The Commission shall operate using a four-member executive committee which shall be created by

EXECUTIVE ORDER MJF 99-42

Secondary School Redesign Study Commission

having the governor, president of the Senate, speaker of the House of Representatives, and the president of BESE each appointing one member. The superintendent of Department of Education shall serve as an ex officio member of the executive committee. Such executive committee shall identify and oversee the work of any staffing support for the Commission, and shall work with the chair to establish the agendas and work plan for each meeting.

SECTION 7: The Commission shall utilize the expertise of one or more national school finance experts and one or more state experts, with such experts being selected by the executive committee. The superintendent of the Department of Education shall have the responsibility of identifying possible candidates and making recommendations to the executive committee in a time frame that ensures the completion of all necessary paperwork to allow one or more of these experts to actually begin consulting work no later than September 1, 1999. Costs associated with the services of such experts shall be covered by BESE using funds appropriated by the legislature for such purpose. Such experts shall report to and follow the directions of the executive committee.

SECTION 8: The Commission shall provide the opportunity for input from other legislators, BESE members, school district officials, community leaders, parents, and others not formally serving as a Commission member.

SECTION 9: The Commission shall meet at regularly scheduled intervals and at the call of the chair. A simple majority of the members of the Commission shall constitute a quorum for the transaction of business. All formal actions of the Commission shall require a majority vote of the members of the Commission present, with a quorum being fourteen (14) members.

SECTION 10: Commission members shall not receive compensation or a per diem, unless provided for by their own organization. Commission members may receive reimbursement for actual travel expenses, in accordance with state guidelines and procedures, using funds appropriated to BESE by the legislature for overall Commission activities.

SECTION 11: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Commission in implementing the provisions of this Order.

SECTION 12: This Order is effective upon signature and shall remain in effect until March 1, 2001, or until amended, modified, terminated, or rescinded by the governor or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 26th day of August, 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9909#085

WHEREAS, Louisiana's economy during the 21st century requires a workforce with a strong academic foundation and technological competence, and therefore all schools must better prepare students for further education and work;

WHEREAS, it is essential that every Louisiana student obtain a high school education that allows that student to become a productive citizen in this new economy;

WHEREAS, Louisiana's new content standards, testing program, and accountability system require that all students and schools perform at higher levels than previously required;

WHEREAS, Louisiana's current system of secondary education does not consistently provide clear pathways which include and integrate academic, technical, and vocational learning, nor has it established strong linkages with the state's community and technical colleges;

WHEREAS, it is essential to ensure that all students have multiple pathway options available to them throughout their high school career, that emphasize both academic and career preparation; and

WHEREAS, given the many K-12 reforms underway, now is an appropriate time to carefully review all policies governing the state's current system of secondary education;

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

SECTION 1: The Secondary School Redesign Study Commission (hereafter "Commission") is created within the executive department, Office of the Governor.

SECTION 2: The Commission shall perform all of its duties in close association with the State Board of Elementary and Secondary Education (hereafter "BESE"), the Louisiana Community and Technical College Board, and state superintendent of the Department of Education.

SECTION 3: The duties and functions of the Commission shall include the recommendation of state policy changes leading to an improved secondary school system offering clear multiple pathways for all Louisiana youth, including those choosing to immediately begin full-time employment, those who enter an apprenticeship or a two-year college, or those who pursue a four-year degree. In making these recommendations, an examination of at least the following shall occur:

A. A review of best practices within other states regarding effective secondary school system and policies;

B. The key factors driving Louisiana's current dropout rate and strategies for significantly increasing the number of students who stay in school and graduate;

C. The types of safeguards needed to ensure that all secondary students will continue to have the option of choosing between various career pathways;

D. Necessary policy changes to help create an extensive system of alternative and other more career-based schools serving diverse students at flexible times and varied locations;

E. Necessary policy changes to help create a stronger linkage between K-12 school systems, the Louisiana Community and Technical College system, and all of post-secondary education including possible funding flow changes, whereby high school students may be engaged in dual high school/postsecondary enrollment options;

F. An examination of how the new 8th grade LEAP 21 tests and the planned upgrading of the high school exit exam best fit in an overall secondary school redesign; and

G. Any special considerations for special education students who may not be able to pass the new state LEAP 21 tests, but are capable of doing more than receiving the state's current certificate of attendance;

SECTION 4: The Commission shall submit a written report to the governor, BESE, and the Louisiana Community and Technical College Board by March 1, 2000, which addresses the issues set forth in Section 2. Based upon progress made by the Commission, the governor may request that additional work be completed, with a final report required by no later than March 1, 2001.

SECTION 5: The Commission shall be composed of thirty-two (32) members who shall be appointed by, and serve at the pleasure of, the governor selected as follows:

- A. The governor, or the governor's designee;
- B. The governor's chief of staff, or the chief of staff's designee;
- C. Two (2) members of the Louisiana state Senate;
- D. Two (2) members of the Louisiana House of Representatives;
- E. Four (4) members of the State Board of Elementary and Secondary Education (BESE);
- F. The superintendent of the Department of Education or the superintendent's designee;
- G. Two (2) members of the Louisiana Community and Technical College Board;
- H. The president of the Louisiana Community and Technical College System, or the president's designee;
- I. One (1) member of the Louisiana Workforce Commission;
- J. The executive director of the Louisiana Workforce Commission, or the executive director's designee;
- K. An employer representative;
- L. A representative from the Louisiana School Boards Association;
- M. A superintendent of a school system in an urban area;
- N. A superintendent of a school system in a rural area;
- O. A central office administrator within a school system in an urban area;
- P. A principal from a high school that has implemented the "High Schools That Work" model and/or extensive career academies;
- Q. A principal of an alternative or vocational school;
- R. A representative of the Louisiana Federation of Teachers;
- S. A representative of the Louisiana Association of Educators;
- T. A representative of the Associated Professional Educators of Louisiana;
- U. A special education teacher or supervisor;
- V. A parent representative;

W. A representative of the Council for a Better Louisiana;

X. A representative of the Louisiana Association of Business and Industry;

Y. A representative of a School-to-Work project; and

Z. A representative of the AFL-CIO.

SECTION 6: The governor shall select the chair of the Commission from its membership. All other officers shall be elected by the membership of the Commission.

SECTION 7: The Commission shall be staffed by a team representing at least the Department of Education, the Board of Elementary and Secondary Education (BESE), the Office of the Governor, and the Community and Technical College Board. The Department of Education shall play the lead staffing role and ensure that all appropriate professional and logistical work is completed.

SECTION 8: The Commission shall meet at regularly scheduled intervals and at the call of the chair. A simple majority of the members of the Commission shall constitute a quorum for the transaction of business. All formal actions of the Commission shall require a majority vote of the members of the Commission present to constitute a quorum.

SECTION 9: The members of the Commission shall not receive additional compensation or a per diem from the Office of the Governor. Contingent upon the availability of funds, Commission members may receive reimbursement for actual travel expenses incurred, in accordance with state guidelines and procedures.

SECTION 10: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Commission in implementing the provisions of this Order.

SECTION 11: The provisions of this Order are effective upon signature and shall remain in effect until March 1, 2001, unless 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 26th day of August, 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9909#084

EXECUTIVE ORDER MJF 99-43

Bond Allocation—Industrial Development Board of the
City of New Orleans, Louisiana, Inc.

WHEREAS, Executive Order No. MJF 99-28, issued on July 9, 1999, granted a private activity bond allocation from the 1999 private activity bond volume limit to the Industrial Development Board of the City of New Orleans, Louisiana, Inc., for a bond issue in accordance with the requirements of Executive Order No. MJF 96-25; and

WHEREAS, it is necessary to amend Executive Order No. MJF 99-28 in order to extend the time period in which the bond issue may be delivered to initial purchasers;

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

SECTION 1: Section 3 of Executive Order No. MJF 99-28 is hereby modified to provide as follows:

The granted allocation shall be valid and in full force and effect through the end of 1999, provided that such bonds are delivered to the initial purchasers thereof on or before December 15, 1999.

SECTION 2: All other sections of Executive Order No. MJF 99-28 shall remain in full force and effect, and are not affected by the provisions of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 7th day of September, 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9909#083

EXECUTIVE ORDER MJF 99-44

Governor Jimmie Davis Sunshine Award

WHEREAS, James Houston "Jimmie" Davis, who was born in a sharecropper's cabin near the village of Quitman, parish of Jackson, on September 11, 1899, matured to become a history teacher, basketball coach, world renowned song writer and entertainer, clerk of criminal court, commissioner of public safety for the city of Shreveport, state public service commissioner, and governor of the state of Louisiana;

WHEREAS, former Governor Jimmie Davis brought recognition and acclaim to the state of Louisiana, and also joy to people worldwide, by introducing Cajun music to country music listeners, starring in movies, being inducted into the Country Music Hall of Fame in 1972, and writing more than 300 songs, including "You Are My Sunshine";

WHEREAS, during his two non-consecutive terms as governor of the state of Louisiana, former Governor Jimmie Davis created the State Employees Retirement System, re-created the Department of Civil Service, built seven (7) hospitals, built the present Governor's Mansion, built many major bridges, including the Sunshine Bridge, and established many recreational areas including the Toledo Bend Reservoir;

WHEREAS, on January 23, 1999, the Louisiana Political Hall of Fame Museum in Winnfield, bestowed on former Governor Jimmie Davis the museum's first "Politician of the Century" award for the citizen of the state of Louisiana who most personifies the greatest qualities a public servant can possess and, in honor of that event, Governor M.J. "Mike" Foster, Jr., proclaimed January 23, 1999, as Jimmie Davis Day; and

WHEREAS, the interests of the citizens of the state of Louisiana are best served by honoring the public service contributions of former Governor Jimmie Davis by celebrating his 100th birthday through the issuance of a proclamation declaring September, 1999, as Jimmie Davis Month and the creation of a public service award in his name;

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

SECTION 1: The "Governor Jimmie Davis Sunshine Award" is hereby created to recognize the state public servant whose public service brought the most "sunshine" into the lives of the citizens of the state of Louisiana, or a significant portion thereof, during the prior calendar year (hereafter "award"). The recipient of the annual award shall be announced by the governor of the state of Louisiana following his address to both houses of the Louisiana Legislature on the first day the Louisiana Legislature meets in regular session.

SECTION 2:

A. Nominations for award recipients shall be submitted to the governor by each of the three branches of state government. The president of the Louisiana Senate, the speaker of the Louisiana House of Representatives, the chief justice of the Louisiana Supreme Court, and the statewide elected officials and appointed department heads in the executive branch shall submit separate lists of nominees to the governor no later than January 31st of each year. Each nomination shall be accompanied by sufficient information and/or documentation to support the nominee's nomination and to provide a basis to evaluate the significance of the nominee's state public service, humanitarian, and/or civic acts, actions, and/or deeds, and the manner in which they benefitted the citizens of the state of Louisiana.

B. Each nominee must be an officer or employee of the state of Louisiana whose public service, humanitarian and/or civic acts, actions, or deeds during the prior calendar year brought "sunshine" into the lives of the citizens of the state of Louisiana or a sizeable segment thereof, by benefitting or significantly improving their quality of life.

C. The governor will appoint a five (5) member board to select the award recipient. No board member shall be an officer or an employee of the state of Louisiana. The board shall be composed of two (2) members selected by the Governor; one (1) member selected by the president of the Louisiana Senate; one (1) member selected by the speaker of

the House of Representatives; and one (1) member selected by the chief justice of the Louisiana Supreme Court.

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

SECTION 4: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of September, 1999.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9909#089

Emergency Rules

DECLARATION OF EMERGENCY

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

EPO Plan Document—Facility Fees

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, and in accordance with R.S. 40:2204(D), the Board of Trustees hereby invokes the Emergency Rule provisions of La R.S. 49:953(B).

The Board finds that it is necessary to amend the EPO Plan Document to provide a schedule of maximum allowable charges for facility fees and to exclude payment of facility fees for services rendered in a physician's office or in a facility not approved by Medicare. Failure to adopt this rule on an emergency basis will result in a financial impact adversely affecting the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, amending the EPO Plan Document, is effective September 1, 1999, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first:

Amendment Number 1

Amend the Schedule of Benefits in the EPO Plan Document to add the following:

Facility Fees, Maximum Allowable Charges

Unless otherwise provided by contract between the Program and the Provider, the Maximum Allowable Charges for facility fees for facilities located within the State of Louisiana shall be:

Facility Type/Charges	Maximum Allowable Charges
Medical	\$1,500/day
Surgical	\$2,000/day
ICU, NICU, CCU	\$3,000/day
Cardiovascular Surgery	\$5,000/day
Rehabilitation	\$750/day
Ambulatory (Outpatient) Surgery	\$3,000 max/occurrence

Amendment Number 2

Amend Article 3, Section IX of the EPO Plan Document to add a new subsection, NN, to read as follows:

No benefits are provided under this Plan for:

* * *

NN. Facility fees for services rendered in a physician's office or in any facility not approved by the federal Health

Care Finance Administration for payment of such fees under Medicare.

A. Kip Wall
Interim Chief Executive Officer

9909#034

DECLARATION OF EMERGENCY

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

PPO Plan Document—Facility Fees

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, and in accordance with R.S. 40:2204(D), the Board of Trustees hereby invokes the Emergency Rule provisions of La R.S. 49:953(B).

The Board finds that it is necessary to amend the PPO Plan Document to provide a schedule of maximum allowable charges for facility fees and to exclude payment of facility fees for services rendered in a physician's office or in a facility not approved by Medicare. Failure to adopt this rule on an emergency basis will result in a financial impact adversely affecting the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, amending the PPO Plan Document, is effective September 1, 1999, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first:

Amendment Number 1

Amend the Schedule of Benefits in the PPO Plan Document to add the following:

Facility Fees, Maximum Allowable Charges

Unless otherwise provided by contract between the Program and the Provider, the Maximum Allowable Charges for facility fees for facilities located within the State of Louisiana shall be:

Facility Type/Charges	Maximum Allowable Charges
Medical	\$1,500/day
Surgical	\$2,000/day
ICU, NICU, CCU	\$3,000/day
Cardiovascular Surgery	\$5,000/day
Rehabilitation	\$750/day
Ambulatory (Outpatient) Surgery	\$3,000 max/occurrence

Amendment Number 2

Amend Article 3, Section IX of the PPO Plan Document to add a new subsection, NN, to read as follows:

No benefits are provided under this Plan for:
* * *

NN. Facility fees for services rendered in a physician's office or in any facility not approved by the federal Health Care Finance Administration for payment of such fees under Medicare.

A. Kip Wall
Interim Chief Executive Officer

9909#033

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Veterinary Medicine

Registered Equine Dentist
(LAC 46:LXXXV.Chapter 15)

The Louisiana Board of Veterinary Medicine has adopted the following Emergency Rule effective August 20, 1999, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and the Veterinary Practice Act, LA R.S. 37:1518 et seq., and it shall be in effect for the maximum period allowed under law or until adoption of the Rule, whichever occurs first.

By act of legislation, effective July 1999, individuals may apply to practice as equine dentists in the state of Louisiana. To protect the public health and safety, the Board has adopted LAC 46:LXXXV.1500 through 1519 for the registration and regulation of individuals to practice equine dentistry and related matters.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 15. Registered Equine Dentists

§1500. Definitions

A. All definitions used in this chapter shall have the meaning assigned to them in La. R.S. 37:1560. In addition, the following definitions shall be applied.

Approval—as used in R.S. 37:1562(C)(2) means the veterinarian shall make an informed decision based upon his professional judgment after giving consideration to the notification provided by an equine dentist which shall include a visual inspection conducted by the veterinarian prior to the commencement of the procedure.

Continuing Education—board-approved educational experiences in equine dentistry, which may be in the form of institutes, seminars, lectures, conferences, workshops, and other modes of delivery so as to maintain and improve technical competency for the health, welfare, and safety of the citizens of Louisiana.

Continuing Education Unit (CEU)—one hour of activity or participation in a continuing educational program approved by the board.

Equine Owner's Veterinarian—veterinarian licensed by the board who has established a veterinary-client-patient

relationship as a primary care provider or as a consultant to the primary care provider.

Notify or Notification—

a. with regards to the rasping (floating) of molar, premolar and canine teeth, and the removal of deciduous incisor and premolar teeth (caps), shall mean full written or verbal person to person communication with the veterinarian prior to the commencement of the procedure; or

b. with regards to extracting equine first premolar teeth (wolf teeth), shall mean full written or verbal person to person communication with the veterinarian prior to commencement of the procedure and after approval is given by the veterinarian; however, written confirmation of the notification prepared by the registered equine dentist shall be sent to and received by the veterinarian within seven days after the procedure, which written confirmation shall include:

- i. owner's name, address, and phone number;
- ii. identifying information concerning the horse, which shall include name, permanent identification marks, age, sex, and color;
- iii. method of restraint used during the procedure;
- iv. type of dental procedure performed, including methods used;
- v. description of the outcome of the procedure;
- vi. recommendations, if any, to the owner following extraction of any first premolar teeth.

Possession—actual possession whereby the registered equine dentist has his certificate readily available.

Practice of Equine Dentistry—means the rasping (floating) of molar, premolar and canine teeth, and the removal of deciduous incisor and premolar teeth (caps); additionally, an equine dentist may extract equine first premolar teeth (wolf teeth) after complying with the requirements set forth in R.S. 37:1562(C)(2) and the board's rules.

Referral—a verbal request to perform equine dentistry made to a registered equine dentist by a veterinarian licensed by the board who has established a veterinarian-client-patient relationship as defined in LAC 46:LXXXV.700 and who is readily accessible by beeper or cell phone as well as present within a 30 mile radius of and 30 minutes or less travel time from the treatment site.

Referral Veterinarian—a veterinarian licensed by the board authorized by the existence of a veterinarian-client-patient relationship as defined in LAC 46:LXXXV.700 to make a referral to perform equine dentistry to a registered equine dentist and who is readily accessible by beeper or cell phone as well as present within a 30 mile radius of and 30 minutes or less travel time from the treatment site.

Substantially Involved in the Care and Maintenance of Horses in the Horse Racing Industry in Louisiana—previous practical experience within the horse racing industry that included equine dental procedures.

Unprofessional Conduct—in addition to the definition set forth in R.S. 37:1564(A)(10), shall include the following:

- a. making or participating in any communication, advertisement or solicitation which is false, fraudulent, deceptive, misleading or unfair, or which contains a false, fraudulent, deceptive, misleading or unfair statement or claim;

b. initiation or continuation of services that are contraindicated or cannot reasonably result in beneficial outcome;

c. abuse or exploitation of the provider-patient relationship for the purpose of securing personal compensation, gratification, or benefit unrelated to the provision of service;

d. failure to comply with the practice requirements set forth in R.S. 37:1562;

e. failure to comply with the duties established in R.S. 37:1560 et seq. and/or the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1501. Applications for Certificates of Approval

A. Pursuant to La. R.S. 37:1561 and 1562(D), applicants shall submit the following items to the board:

1. a completed application form approved by the board, which shall be sworn to and subscribed before a Louisiana notary public;

2. evidence that the applicant is a current resident of this state on July 1, 1999, which evidence must be one of the following:

a. a utility bill statement in the name of the applicant and for a Louisiana address which includes service for July 1, 1999; or

b. any other document providing evidence of residency on July 1, 1999, which is approved by a majority of a quorum of the board;

3. evidence that the applicant is substantially involved in the care and maintenance of horses in the horse racing industry in Louisiana, which evidence shall be the following:

a. an affidavit from the applicant sworn to and subscribed before a Louisiana notary public; and

b. two letters of reference on board-approved forms from veterinarians licensed by the board which shall attest to the applicant's character and ethical standards as they apply to his knowledge in the field of equine dentistry and his substantial involvement in the care and maintenance of horses in the horse racing industry in Louisiana; and

4. evidence that the applicant was licensed in good standing as an equine dentist by the Louisiana Racing Commission on or before July 1, 1995, which evidence must be a certified statement directly forwarded to the board office from an authorized official of the Louisiana Racing Commission attesting to the applicant's licensure in good standing on or before July 1, 1995;

5. payment of all applicable fees for registered equine dentist fees established by the board;

6. a current passport type photograph of the applicant;

7. certification by the applicant that he has not violated or been subject to any of the grounds for denial of a certificate of approval as listed in La. R.S. 37:1564;

8. a list of all professional certificates or licenses that the applicant currently holds and/or has held.

B. The Board may reject any applications which do not contain full and complete answers and/or information as requested and may reject any application if any information furnished in the application is fabricated, false, misleading, or incorrect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1503. Fees

A. The Board hereby adopts and establishes the following fees for registered equine dentists.

Original Registration Fee	\$ 200
Annual Renewal of Registration Fee	\$ 125
Late renewal fee	\$ 100
Application fee	\$ 100

B. Renewals received after the expiration date as provided in La. R.S. 37:1566, shall be charged a late renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1505. Renewal of Certificates

A. All certificates of approval shall expire annually at midnight September 30. Certificates shall be renewed by completing a re-registration form which shall be provided by the board, submitting any other documents required by this chapter, and by payment of the annual renewal fee established by the board.

B. Each year, ninety days prior to the expiration date of the license, the board shall mail a notice to each registered equine dentist stating the date his certificate will expire and providing a form for re-registration.

C. The certificate of approval will be renewed for any person who complies with the requirements of this chapter.

D. Re-registration forms for renewal of certificates of approval, complete with payment of fees and any other documents required by this chapter, shall be postmarked no later than the expiration date of the certificate each year. Re-registration forms postmarked after midnight of the expiration date will be subject to a late renewal fee as established by the board. This fee is in addition to the regular fee for annual renewal.

E. Continuing education requirements prescribed by this chapter must be satisfied before a certificate of approval is renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1507. Expired Certificate

A. A registered equine dentist whose certificate has expired may be reinstated within one year of its expiration by making written application for renewal, paying the current renewal fee plus all delinquent renewal fees, and meeting the continuing education requirements prescribed by the board.

B. The identifying number of an expired certificate of approval shall not be issued to any person other than the original holder of that number.

C. A registered equine dentist who fails to renew a certificate of approval within one year of its expiration must reapply for a new certificate. A certificate of approval shall not be issued without the approval of a majority of the quorum of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1509. Revoked Certificate

A. A registered equine dentist whose certificate has been revoked pursuant to La. R.S. 37:1564 must reapply for a new certificate.

B. A person whose certificate of approval has been revoked pursuant to La. R.S. 37:1564 shall not be issued a new certificate unless approved by a majority of a quorum of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1511. Review or Appeal of Denial of Application

A. Any registered equine dentist aggrieved by a decision of the board, other than a holder of a certificate of approval against whom disciplinary proceedings have been brought pursuant to R.S. 37:1560 et seq. may, within 30 days of notification of the board's action or decision, petition the board for a review or appeal of the board's actions.

B. Such petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office.

C. Upon receipt of such petition, the board may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony, or evidence unless so required by statute or other rules or regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1513. Disciplinary Proceedings

A. The Board, after due notice and hearing as set forth in the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq. and LAC 46:LXXXV.1401, may deny, reprimand, restrict, fine, probate, suspend, revoke or pursuant to LSA R.S. 37:1560 et seq. otherwise sanction a registered equine dentist or applicant for certification on a finding that the person has violated LSA R.S. 37:1560 et seq. or any of the rules promulgated by the board, or prior final decisions and/or consent orders involving the registered equine dentist or applicant for certification.

B. Any registered equine dentist against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the Board pursuant to R.S. 37:1560 et seq. and/or the board's rules, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and LAC 46:LXXXV.1401.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1515. Practice and Duties

A. Except as provided in R.S. 37:1562, no person shall practice equine dentistry in Louisiana unless issued a certificate of approval by the board.

B. Pursuant to La. R.S. 37:1562(C)(1), a registered equine dentist who practices equine dentistry at a location other than at a racetrack shall notify the horse owner's veterinarian prior to the commencement of the practice of equine dentistry.

C. Pursuant to La. R.S. 37:1562(C)(1), in the event that the horse owner does not have a veterinarian, the equine dentist shall obtain a referral from a veterinarian licensed by the board who has established a veterinarian-client-patient relationship as defined in LAC 46:LXXXV.700. Such referral must be documented by the veterinarian to include:

1. the establishment of the veterinarian-patient-client relationship as defined in LAC 46:LXXXV.700 prior to referral; and

2. that the referral veterinarian is readily accessible by beeper or cell phone as well as present within a 30 mile radius of and 30 minutes or less travel time from the treatment site;

3. the referral veterinarian must submit a copy of the written referral which must be received by the registered equine dentist within seven days from the referral;

4. such documentation shall be made part of the records maintained by the veterinarian and the registered equine dentist.

D. Pursuant to La. R.S. 37:1562(C)(2), prior to the initiation of an extraction of first premolar teeth (wolf teeth), the registered equine dentist shall notify and obtain the approval of the equine owner's veterinarian or referral veterinarian.

E. Duties

1. Prohibition on Drugs. A registered equine dentist shall not prescribe, recommend, or administer any legend drug or controlled substance.

2. Record Keeping. A registered equine dentist shall establish and maintain legible records which can provide a veterinarian with a full understanding of the findings concerning and treatment provided to each horse. Each registered equine dentist shall maintain an individual record on each horse to include, but not limited to, the following:

a. owner's name, address, and phone number; identifying information concerning the horse, which shall include name, permanent identification marks, age, sex, and color; nature of dental complaint; method of restraint used during a procedure; type of dental procedure performed; description of the outcome of the procedure; and recommendations, if any, to the owner following the procedure;

b. original of written notifications submitted to veterinarians regarding treatment;

c. records shall be maintained for at least five years;

d. records are the responsibility and property of the registered equine dentist. The registered equine dentist shall maintain such records and shall not release the records to any person other than the client or a person authorized to receive the records for the client, except that the registered equine dentist shall provide any and all records as requested by the board to the board; and

e. copies of records shall be provided to the client or the client's authorized representative upon written request of the client. A reasonable charge for copying and providing records may be required by the registered equine dentist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1517. Continuing Education

A. Basic Requirements

1. A minimum of six (6) continuing education units is required each fiscal year (July 1 through June 30) as a prerequisite for renewal of certification. A registered equine dentist who fails to obtain a minimum of six (6) continuing education units within the prescribed twelve-month period will not meet the requirements for renewal of his certificate. Notwithstanding the requirements of this section, for the period August 20, 1999 - June 30, 2000, a minimum of six (6) continuing education units is required as a prerequisite for renewal of certification during the July 1, 2000 - September 30, 2000 renewal period.

2. All continuing education programs must be approved by the board prior to attendance.

3. Proof of attendance, which shall include the name of the course, date(s) of attendance, hours attended, and specific subjects attended, shall be attached to the annual certificate renewal form. Proof of attendance must include verification from the entity providing or sponsoring the educational program.

4. All hours shall be obtained in the twelve months preceding the renewal period of the certificate.

5. Each registered equine dentist must fulfill his annual education requirements at his own expense.

B. Failure to Meet Requirements

1. If a registered equine dentist fails to obtain a minimum of six (6) continuing education units within the prescribed twelve-month period, his certificate shall be expired and his certificate shall remain expired until such time as the continuing education requirements have been met and documented to the satisfaction of the board.

2. The board may grant extensions of time for extenuating circumstances. The registered equine dentist must petition the board at least 30 days prior to the expiration of the certificate. The board may require whatever documentation it deems necessary to verify the circumstances necessitating the extension.

3. Failure to comply with the requirements of this section shall be considered unprofessional conduct.

C. Approved Continuing Education Programs

1. It is the responsibility of the registered equine dentist to submit a request for approval of a continuing education program no less than 60 days prior to the program. Information to be submitted shall include:

- a. the name of the proposed program and sponsor organization;
- b. course content;
- c. the number of continuing education units to be obtained by attendees.

2. Continuing education units which are submitted for renewal and were not pre-approved by the board may be reviewed by the board. If the units are not approved, the registered equine dentist will be required to take additional continuing education in an approved program prior to the renewal of his certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

§1519. Unprofessional Conduct on Part of the Veterinarian

After due notice and hearing as set forth in the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq. and the board's rules, more particularly section 1401 et seq., a veterinarian who fails to comply with a rule promulgated by the board regarding the practice of equine dentistry shall be subject to disciplinary action and sanction by the board for unprofessional conduct pursuant to the Louisiana Veterinary Practice Act, LSA R.S. 37:1526(A)(14) and the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1526(A)(14), 37:1518(A)(9) and 37:1568.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:

Kimberly B. Barbier
Administrative Director

9909#010

DECLARATION OF EMERGENCY

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

**Sanitary Code—Refrigeration of Shellstock Oysters,
Clams, and Mussels (Chapter IX)**

The Department of Health and Hospitals, Office of Public Health is adopting the following Emergency Rule, effective September 20, 1999, in the Sanitary Code, Chapter IX, Commercial Seafood Program, in accordance with the provisions of the Louisiana Administrative Procedure Act. This Emergency Rule is necessary since the current National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish requirements were changed at the recent Interstate Shellfish Sanitation Conference. The requirements of the National Shellfish Sanitation Program must be complied with in order for shell stock harvested in Louisiana to enter into interstate commerce.

Emergency Rule

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 50 F within the time period prescribed herein; and shall be maintained at or below that temperature through out 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 of 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.

D. Harvest-Dealer Time/Temperature Log Sheet (see Table 1) 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 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 1) 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 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 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 50 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 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.

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 listed in 9:052-3 shall be deemed adulterated and shall be subject to seizure and destruction.

David W. Hood
Secretary

9909#042

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies

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 LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule May 20, 1999 governing the disproportionate share

payment methodologies for hospitals (*Louisiana Register*, Volume 25, Number 5). This rule was adopted pursuant to state law Act 19 of the 1998 Legislative Session, and the Rural Hospital Preservation Act 1485 of 1997 Legislative Session. Act 19 provided for different treatment of disproportionate share funds for uncompensated costs in small non-state operated local government hospitals and private rural hospitals with 60 beds or less. Act 1485 allows small rural hospitals to meet less stringent criteria in order to receive the maximum disproportionate share funding available in accordance with the amounts appropriated by the Legislature and to the extent authorized by federal law.

In order to comply with Senate Concurrent Resolution (SCR) 48 and Act 1068 of the 1999 Louisiana Regular Legislative Session, the Department seeks to amend the May 20, 1999 rule by amending the disproportionate share qualification criteria for small rural hospitals.

This action is necessary to secure enhanced federal funding. It is estimated that the expenditure necessary to implement this rule will be \$4,671,604 in federal funds only for state fiscal year 1999. This rule will not require the expenditure of any additional state general funds.

Emergency Rule

Effective October 1, 1999, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the May 20, 1999 rule by revising the disproportionate share qualification criteria for small rural hospitals as required by Senate Concurrent Resolution (SCR) 48 and Act 1068 of the 1999 Regular Legislative Session.

III. Reimbursement Methodologies

B. Small Rural Hospitals

1. A Small Rural Hospital is a hospital (other than a long-term care hospital, rehabilitation hospital, or free-standing psychiatric hospital but including distinct part psychiatric units) meeting the following criteria:

a) had no more than sixty hospital beds as of July 1, 1994, and:

(1) is located in a parish with a population of less than fifty thousand; or

(2) is located in a municipality with a population of less than twenty thousand; or

b) meets the qualifications of a sole community hospital under 42 C.F.R. §412.92(a); or

c) effective October 1, 1999, has no more than sixty hospital beds as of July 1, 1999, and is located in a parish with a population as measured by the 1990 census of less than 17,000; or

d) effective October 1, 1999, has no more than sixty hospital beds as of July 1, 1997, and is a publicly owned and operated hospital; and

(1) is located in a parish with a population of less than fifty thousand; or

(2) is located in a municipality with a population of less than twenty thousand.

The remainder of the May 20, 1999 rule shall remain in effect as previously promulgated.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for

responding to inquiries regarding this emergency rule. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

9909#041

DECLARATION OF EMERGENCY

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

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

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

The Department of Health and Hospitals, Bureau of Health Service Financing currently provides coverage for durable medical equipment under the Medicaid Program. All medical equipment, appliances and supplies must be prior authorized in order to determine medical necessity. Currently, augmentative and alternative communication devices are prior authorized for rental or purchase under the durable medical equipment program according to specific criteria set forth in the *Medicaid Eligibility Manual*. However, only recipients under the age of 21 are eligible to receive these devices (*Louisiana Register*, Volume 22, No. 5). Therefore, effective June 5, 1999, the Department determined that it was necessary to amend the rule regarding prior authorization of augmentative communication devices by removing the age restriction for rental or purchase by eligible recipients, which ensured availability to recipients of all ages, and by expanding the criteria for consideration of these devices for prior authorization (*Louisiana Register*, Volume 25, No. 6). Therefore, the Department is adopting this subsequent emergency rule in order to continue the provisions of the June 5, 1999 rule in force.

Emergency Rule

Effective October 2, 1999, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing removes the age restriction for rental or purchase of augmentative and alternative communication devices for eligible recipients and expands the criteria for consideration of these devices for prior authorization under the Durable Medical Equipment Program.

I. Definitions

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

necessary daily activities. Examples of AAC devices include:

1. communication boards or books, speech amplifiers, and electronic devices that produce speech and/or written output;
2. devices that are constructed for use as communication devices as well as systems that may include a computer, when the primary use of the computer serves as the recipient's communication device; and
3. related components and accessories, including software programs, symbol sets, overlays, mounting devices, switches, cables and connectors, auditory, visual, and tactile output devices, printers, and necessary supplies, such as rechargeable batteries.

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

Speech-Language Pathologist—an individual who has:

1. been licensed by the Louisiana Board of Examiners for Speech Pathologists and Audiologists;
2. a Certificate of Clinical Competence in speech language pathology from the American Speech-Language-Hearing Association;
3. completed the equivalent educational requirements and work experience necessary for the certificate; or
4. completed the academic program and is acquiring supervised work experience to qualify for the certificate.

II. Recipient Criteria

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

A. Medical Necessity Determinations

1. The following medically necessary conditions shall be established for recipients who/whose:
 - a. have a diagnosis of a significant expressive or receptive (language comprehension) communication impairment or disability;
 - b. impairment or disability either temporarily or permanently causes communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities; and
 - c. had a speech-language pathologist (and other health professional, as appropriate):
 - i. perform an assessment and submit a report pursuant to the criteria set forth in sub-section B. Assessment/Evaluation; and
 - ii. recommend speech-language pathology treatment in the form of AAC devices and services; and
 - iii. document the mental and physical ability of a recipient to use, or learn to use, a recommended AAC device and accessories for effective and efficient communication; and
 - iv. prepare a speech-language pathology treatment plan that describes the specific components of the AAC devices and the required amount, duration, and scope of the AAC services that will overcome or ameliorate communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities; and

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

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

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

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

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

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

B. Assessment/Evaluation

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

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

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

- a. identifying information
 - i. name;
 - ii. Medicaid identification number;
 - iii. date of the assessment;
 - iv. medical and neurological; diagnoses (primary, secondary, tertiary);
 - v. significant medical history;
 - vi. mental or cognitive status; and
 - vii. educational level and goals.
- b. sensory status
 - i. vision and hearing screening (no more than one year prior to AAC evaluation);
 - ii. if vision screening is failed, a complete vision evaluation;
 - iii. if hearing screening is failed, a complete hearing evaluation;
 - iv. description of how vision, hearing, tactile, and/or receptive communication impairments or disabilities affect expressive communication.

- c. postural, mobility, and motor status
 - i. gross motor assessment;
 - ii. fine motor assessment;
 - iii. optimal positioning;
 - iv. integration of mobility with AAC devices;
 - v. recipient's access methods (and options) for AAC devices ;

d. current speech, language, and expressive communication status

- i. identification and description of the recipient's expressive or receptive (language comprehension) communication impairment diagnosis;
- ii. speech skills and prognosis;
- iii. language skills and prognosis;
- iv. communication behaviors and interaction skills (i.e., styles and patterns);
- v. functional communication assessment, including ecological inventory;
- vi. indication of past treatment, if any;
- vii. description of current communication strategies, including use of an AAC device, if any.

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

- e. communication needs inventory
 - i. description of recipient's current and projected communication needs;
 - ii. communication partners and tasks including partners' communication abilities limitations, if any, and;
 - iii. communication environments and constraints which affect AAC device selection and/or features (e.g., verbal and/or visual output and/or feedback; distance communication needs).

f. summary of communication limitations. description of the communication limitations that preclude or interfere with meaningful participation in current and projected daily activities (i.e., why the recipient's current communication skills and behaviors prevent meaningful participation in the recipient's current and projected daily activities).

- g. AAC devices assessment components
 - i. vocabulary requirements;
 - ii. representational system(s);
 - iii. display organization and features;
 - iv. rate enhancement techniques;
 - v. message characteristics, speech synthesis, printed output, display characteristics, feedback, auditory and visual output;
 - vi. access techniques and strategies; and
 - vii. portability and durability concerns, if any.

h. identification of AAC devices considered for recipients

- i. identification of the significant characteristics and features of the AAC devices considered for the recipient; and
- ii. identification of the cost of the AAC devices considered for the recipient (including all required components, accessories, peripherals, and supplies, as appropriate).

- i. AAC device recommendation
 - i. identification of the requested AAC devices including all required components, accessories, software, peripheral devices, supplies, and the device vendor;

- ii. identification of the recipient's and communication partner's AAC devices preference, if any;
- iii. assessment of the recipient's ability (physically and mentally) to use, or to learn to use, the recommended AAC device and accessories for effective and efficient communication;

- iv. justification stating why the recommended AAC device (including description of the significant characteristics, features, and accessories) is better able to overcome or ameliorate the communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities, as compared to the other AAC devices considered;

- v. justification stating why the recommended AAC device (including description of the significant characteristics, features, and accessories) is the least costly, equally effective, alternative form of treatment to overcome or ameliorate the communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities.

- j. treatment plan and follow-up
 - i. description of short term communication goals (e.g., 6 months);

- ii. description of long term communication goals (e.g., 1 year);

- iii. assessment criteria to measure recipient's progress toward achieving short and long term communication goals;

- iv. description of amount, duration, and scope of AAC services required for the recipient to achieve short and long term communication goals;

- v. identification and experience of AAC service provider responsible for training (these service providers may include, e.g.: speech-language pathologists, occupational therapists, rehabilitation engineers, the recipient's parents, teachers and other service providers).

- k. summary of alternative funding source for AAC device

- i. description of availability or lack of availability, of purchase of AAC device through other funding sources.

C. Trial Use Periods

1. In instances where the appropriateness of a specific AAC device is not clear, a trial use period for an AAC device may be recommended (although it is not required) by the speech-language pathologist who conducts the AAC evaluation.

2. Prior authorization for rental of AAC devices shall be approved for trial use periods when the speech-language pathologist prepares a request consistent with the established requirements. The reasons for a trial use period request include, but are not limited to:

- a. the characteristics of the recipient's communication limitations;

- b. lack of familiarity with a specific AAC device; and
- c. whether there are sufficient AAC services to support the recipient's use of the AAC device, or other factors.

3. If the speech-language pathologist recommends a trial use period, the pathologist must prepare a request that includes the following information:

- a. the duration of the trial period;
- b. the speech-language pathologist information and the recipient information as required in B. Assessment/Evaluation;
- c. the AAC device to be examined during the trial period, including all the necessary components (e.g., mounting device, software, switches, or access control mechanism);
- d. the identification of the AAC service provider(s) who will assist the recipient during the trial period;
- e. the identification of the AAC services provider(s) who will assess the trial period; and
- f. the evaluation criteria, specific to the recipient, that will be used to determine the success or failure of the trial period.

4. Trial use period requests must request Medicaid funding for the rental of all necessary components and accessories of the AAC device. If an accessory necessary for the trial use of a device by a recipient is not available for rental, but the communication device is available for rental for trial use, Medicaid may consider the purchase of the accessory for the trial use of the communication device by that recipient.

5. Trial periods may be extended and/or different AAC devices provided, when requested by the speech-language pathologist responsible for evaluating the trial use period.

6. Results of trial use periods must be included with any subsequent request for prior authorization of purchase of the AAC device. Recommendations for the purchase of an AAC device, as a result of a trial use period of the device, must clearly indicate the patient's ability to use the device during the trial period.

D. Repairs

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

a. Providers of AAC devices are expected to comply with the Louisiana New Assistive Devices Warranty Act.

i. One of the provisions of this law is that all persons who make, sell, or lease assistive devices, including AAC devices, must provide those who buy or lease the equipment with a warranty which lasts at least one year from the time the equipment is delivered to the customer.

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

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

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

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

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

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

a. whether there have been any significant changes in the sensory status (e.g., vision, hearing, tactile); postural, mobility or motor status; speech, language, and expressive communication status; or any other communication need or limitation of the recipient as described in B.2. (b through g, and j); and

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

E. Replacement or Modification

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

a. Requests for modification or replacement of AAC devices and/or accessories may be considered for coverage after the expiration of three (3) or more years from the date of purchase of the current device and accessories in use.

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

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

d. Requests for replacements of identical AAC devices must be accompanied by a statement from the provider that the current device can not be repaired or that replacement will be more cost effective than repair of the current device. Data must be provided about the following:

- i. age;
- ii. repair history;
 - (a) frequency,
 - (b) duration, and
 - (c) cost; and

iii. repair projections (estimated durability of repairs).

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

i. a significant change has occurred in the recipient's expressive communication, impairments, and/or

communication limitations. Modification or replacement requests due to changed individual circumstances must be supported by a new assessment of communication limitations by a speech-language pathologist, and may be submitted at any time; or

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

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

III. Prior Authorization

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

B. Medicaid will not consider purchase of an AAC device when an alternative means of funding through another agency or other source (e.g., Louisiana Rehabilitation Services, school systems, private insurance, etc.) is available for the recipient. All requests should indicate the availability, or lack of availability, of purchase through other funding sources.

C. When the medical necessity cannot be determined for an AAC device pursuant to the criteria stated above and to the information submitted in support of a prior authorization request, the following steps shall be taken:

a. if Medicaid determines that any essential information in establishing medical necessity for the AAC device is incomplete, or has been omitted in the prior authorization request as required in sub-section B. Assessment/Evaluation, Medicaid will make direct contact with the speech-language pathologist who conducted the assessment for the recipient. Medicaid will then identify the specific, additional information that is needed and request that the additional information be submitted; and/or

b. if Medicaid determines that an additional interpretation of information in the prior authorization request is needed by the medical reviewer in establishing medical necessity for an AAC device, Medicaid will seek the advice of speech language pathologist(s) with extensive AAC experience recommended to Medicaid by the American Speech Language & Hearing Association (ASHA), the United States Society for Augmentative & Alternative Communication (USSAAC), and/or the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA), who shall provide the required interpretation.

i. only one request for additional information by direct contact with the speech/language pathologist and/or only one interpretation will be made per prior authorization request;

ii. if additional information requested by Medicaid from the speech/language pathologist who

conducted the assessment, or if an additional interpretation requested from a consulting speech-language pathologist, is not received by Medicaid within the 25 day time frame required of Medicaid for a prior authorization determination, a decision will be made by the medical reviewer for Medicaid based on the information that has been submitted with the prior authorization request and on the reviewer's interpretation of that information. If the additional information or additional interpretation is provided at a later time, another request will need to be submitted by the provider to the Prior Authorization Unit for additional review.

David W. Hood
Secretary

9909#079

DECLARATION OF EMERGENCY

Department of Social Services Office of Community Services

Reimbursement Rates for Residential Facilities (LAC 67:V.3503)

The Department of Social Services, Office of Community Services adopts the following emergency rule in the Foster Care Program as authorized by R.S. 46:153. This emergency rule shall be in effect for 120 days effective September 2, 1999.

The Department of Social Services, Office of Community Services previously adopted a rule (*Louisiana Register*, Vol. 25, No. 6) which set the rate setting methodology for residential facilities caring for foster children. There are technical difficulties in the administrative component of the rate setting methodology. Implementing the rule would cause a fiscal emergency for many residential providers which would adversely affect their ability to continue caring for foster children in residential placements. The department has determined it is necessary to delay implementation of the revised rate setting system. Therefore, the department amends LAC 67:V.3503 to add Paragraph D freezing the residential rates set for the 1999/2000 rate year at the 1998/1999 amount.

The Department of Social Services, Office of Community Services amends LAC 67:V.3503 to add Paragraph D.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 5. Foster Care

Chapter 35. Payments, Reimbursables and Expenditures

§3503. Reimbursement Rates for Residential Facilities

D. For rates set for the 1999/2000 rate year, the Department of Social Services will freeze the rates at the 1998/1999 amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1084.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 14:542 (August

Gwendolyn P. Hamilton
Secretary

9909#024

DECLARATION OF EMERGENCY

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

**Child Care Assistance—Eligibility, Providers, and Payments
(LAC 67:5103, 5107, and 5109)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt the following rule in the Child Care Assistance Program effective October 1, 1999. This rule shall remain in effect for a period of 120 days.

45 CFR Parts 98 and 99 requires biannual submission and approval of the Child Care Development Fund State Plan. The effective date of the next State Plan is October 1, 1999. The Child Care Assistance Program is publishing a Notice of Intent in this issue which proposes changes which are required by this plan and the changes must be in effect October 1. Therefore, an emergency rule is necessary to avoid federal sanctions or penalties which could be imposed if regulations established in the State Plan are not made effective by the Program.

**Title 67
SOCIAL SERVICES**

**Part III. Office of Family Support
Subpart 12. Child Care Assistance**

**Chapter 51. Child Care Assistance Program
§5103. Conditions of Eligibility**

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Family Independence Work Program, as determined by the Case Manager, are categorically eligible.

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria.

1. ...

2. The household includes a child in current need of child care services who is under age 13, or age 13 to age 18 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or is under court supervision.

3. The child must customarily reside more than half the time with the person who is applying for child care services. A child is considered to be residing with the case head during scheduled absences from the home/day care, lasting up to six weeks, if there are definite plans for the child to return to the home/day care facility.

4. The case head, that person's spouse, and any parent of dependent children, if the parent lives in the household (including any minor, unmarried parent (MUP) who is not legally emancipated, and whose children are in need of Child Care Assistance), unless disabled as established by

receipt of Social Security Administration benefits, Supplemental Security Income, Veteran's Administration benefits, worker's compensation, or other disability benefits, must be:

a. employed a minimum average of 20 hours per week and paid either the Federal minimum hourly wage, or gross wages equivalent to the Federal minimum hourly wage multiplied times 20 hours per week; or

b. attending a job training or educational program that is legally authorized by the state for a minimum average of 20 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

c. engaged in some combination of employment, training, or education as defined in §5103.B.4.b, that averages at least 20 hours per week.

d. Exception: a household in which all of the members described in §5103.B.4 meet the disability criteria is not eligible for child care assistance unless one of those members meets the required minimum average of 20 activity hours per week.

5. Household income does not exceed 75% of the state median income for a household of the same size. *Income* is defined as the gross earnings of the case head, that person's spouse, and any parent of dependent children, if the parent lives in the household (including any MUP who is not legally emancipated, and whose children are in need of Child Care Assistance), from all sources of employment, and the following types of unearned income of all household members: Social Security Administration benefits, Supplemental Security Income, Veteran's Administration benefits, retirement benefits, disability benefits, child support/alimony, unemployment compensation benefits, and worker's compensation benefits.

6. The child in need of care must be either a citizen or a qualified alien. CCAP policy on qualified aliens is the same as policy defined by the Family Independence Temporary Assistance Program (FITAP).

7. The family requests child care services, provides the information and verification necessary for determining eligibility and benefit amount, and meets appropriate application requirements established by the State. Required verification includes proof of social security numbers for all household members, birth verification for all children in need of care, proof of all countable household income, and proof of the hours of all employment/education/training.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:

§5107. Child Care Providers

A. The case head is assured freedom in selecting the child care provider of his choice from a variety of child care provider types including center-based child care, registered family child day care homes, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before- and after-school care programs.

B. To be eligible for participation, family child day care home providers must furnish verification of social security

number and residential address, proof that they are at least 18 years of age, and meet all registration requirements including current certification in infant/child or infant/child/adult Cardiopulmonary Resuscitation (CPR). All family child day care home providers participating in the Child Care Assistance Program will be registered and entered into the Provider Directory by the Office of Family Support. Family child day care home providers who provide child care only to children related to them by blood, marriage, or adoption (nieces, nephews, siblings who do not live in the home, grandchildren, and great-grandchildren) need only apply for registration as family child day care homes, but must thereafter meet all registration requirements within one year.

1. All registration functions for family child day care homes, as provided in La. R.S. 46:1441 et seq. and as promulgated in the *Louisiana Register*, September 20, 1991, previously exercised by the Bureau of Licensing, shall be carried out by the Office of Family Support, Child Care Assistance Program.

C. ...

D. Under no circumstances can the following be considered eligible child care providers:

1. persons living at the same residence as the child;
2. - 4. ...

E. Providers will certify that neither they, nor any person employed by or residing with them, has been the subject of a validated complaint of child abuse or neglect; nor have they, or any person employed by or residing with them, been convicted of a felony or of any offense involving a juvenile victim. All providers, other than in-home providers, will certify that they have requested a criminal background check from the Louisiana State Police to verify this information, with respect to the provider and employees of Class A Centers, and the provider and all adult household members of family child day care homes, and will submit proof of having done so before being certified as an eligible provider.

1. Providers will be disqualified from further participation in the program if the department determines

that a condition exists which threatens the physical or emotional health or safety of any child in care, as, for example, where a complaint of child abuse or neglect against a provider or other person with access to children in care has been validated by authorities.

F. A quality incentive will be paid to each child care provider who achieves and maintains National Association for the Education of Young Children (NAEYC) accreditation. The incentive will be paid once each calendar quarter, and will be equal to 10% of all payments received by that provider from the certificate portion of the Child Care and Development Fund for services provided during the prior calendar quarter.

G. Funds in the form of scholarships may be granted to those child care providers who demonstrate an intention to attain appropriate training in Early Childhood Development.

H. - H.1. ...

2. A provider can receive no more than one such grant in any state fiscal year. To apply, the provider must submit an application form with verification, when required, that the repair or improvement is needed to meet DSS licensing or registration requirements and two written estimates of the cost of the repair or improvement, and must certify that the funds will be used for the requested purpose. If the provider has already paid for the repair or improvement, verification of the cost in the form of an invoice or cash register receipt must be submitted. Reimbursement can be made only for eligible expenses incurred no earlier than six months prior to the application.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:

§5109. Payment

A. The sliding fee scale is subject to adjustment based on the state median income and poverty levels which are published annually. The sliding fee scale is as follows:

Sliding Fee Scale for Child Care Assistance Recipients - 75% of Projected Median Income

Number In Household	2	3	4	5	6	7	DSS %
Monthly Household Income	0 - 922	0 - 1157	0 - 1392	0 - 1627	0 - 1862	0 - 2097	100%
	923 - 1182	1158 - 1473	1393 - 1764	1628 - 2056	1863 - 2347	2098 - 2545	85%
	1183 - 1441	1474 - 1789	1765 - 2136	2057 - 2484	2348 - 2832	2546 - 2993	65%
	1442 - 1700	1790 - 2105	2137 - 2508	2485 - 2913	2833 - 3317	2994 - 3441	45%
	1701 - 1959	2106 - 2420	2509 - 2880	2914 - 3341	3318 - 3802	3442 - 3889	25%
	ABOVE 1959	ABOVE 2420	ABOVE 2880	ABOVE 3341	ABOVE 3802	ABOVE 3889	0%

Number In Household	8	9	10	11	12	13	DSS %
Monthly Household Income	0 - 2332	0 - 2567	0 - 2802	0 - 3037	0 - 3272	0 - 3507	100%
	2333 - 2743	2568 - 2941	2803 - 3139	3038 - 3337	3273 - 3535	3508 - 3732	85%
	2744 - 3154	2942 - 3314	3140 - 3475	3338 - 3636	3536 - 3797	3733 - 3957	65%
	3155 - 3565	3315 - 3688	3476 - 3812	3637 - 3935	3798 - 4059	3958 - 4182	45%
	3566 - 3975	3689 - 4061	3813 - 4148	3936 - 4234	4060 - 4321	4183 - 4407	25%
	ABOVE 3975	ABOVE 4061	ABOVE 4148	ABOVE 4234	ABOVE 4321	ABOVE 4407	0%

Number In House-Hold	14	15	16	17	18	19	20	DSS %
Monthly Household Income	0 - 3742	0 - 3977	0 - 4212	0 - 4447	0 - 4682	0 - 4917	0 - 5152	100%
	3743- 3930	3978- 4128	4213 4326	4448- 4524	4683- 4722	4918- 4920	0	85%
	3931- 4118	4129- 4279	4327- 4439	4525- 4600	4723- 4761	4921- 4922	0	65%
	4119- 4306	4280- 4430	4440- 4553	4601- 4677	4762- 4800	4923- 4924	0	45%
	4307- 4493	4431- 4580	4554- 4666	4678- 4753	4801- 4839	4925- 4926	0	25%
	ABOVE 4493	ABOVE 4580	ABOVE 4666	ABOVE 4753	ABOVE 4839	ABOVE 4926	0	0%

B. The level of care authorized is based on the lesser of:

1. the number of hours the child is actually in care; or
2. the least number of activity hours of the case head, that person's spouse, or parent of dependent child(ren), including any MUP who is not legally emancipated, and whose children are in need of Child Care Assistance.

C. Payment levels are based on the number of hours as determined in §5109.B, paid according to the provider's actual daily charges, up to the following Maximum Rate Schedule:

Authorized Levels	Weekly Hours	Provider Daily Rates			
		Class A		All Others	
		Regular Care	Special Needs	Regular Care	Special Needs
Full Day	30+	\$15.00	\$18.75	\$12.00	\$15.00
3/4 Day	21-29	\$11.25	\$14.06	\$ 9.00	\$11.25
1/2 Day	11-20	\$ 7.50	\$ 9.38	\$ 6.00	\$ 7.50
1/4 Day	0-10	\$ 3.75	\$ 4.69	\$ 3.00	\$ 3.75

D. The payment amount for each month is a percentage, as shown in §5109.A, multiplied by the number of service days and the authorized rate for the appropriate level of care, as determined in §5109.B and C.

E. Payment, as calculated in §5109.D, is made on a monthly basis following the month in which services are provided to the eligible child care provider, as defined in §5107, selected by the case head.

F. Payment will not be made for a child who is absent from day care more than 10 days in a calendar month or for an extended closure by a provider of more than five consecutive days in any calendar month.

G. Non-FITAP households may be required to contribute toward the payment of child care costs based on the household size and income.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:

Gwendolyn P. Hamilton
Secretary

9909#070

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Family Independence Work Program (FIND Work)
Participation Requirements (LAC 67:III.2907)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt the following rule in the Family Independence Work Program (FIND Work). This rule shall remain in effect for a period of 120 days.

Pursuant to provisions of Public Law 104-193, as amended by Public Law 105-33, the Balanced Budget Act of 1997, certain annual changes in the participation requirements of the FIND Work State Plan are required. A Notice of Intent published in the August 20, 1999, issue of the *Louisiana Register* proposed these and other changes. This emergency rule is necessary to effect the changes which are mandated effective October 1 in order to avoid sanctions or penalties which could be imposed by a delay in implementation.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 5. Family Independence Work Program (FIND Work)

Chapter 29. Organization

Subchapter B. Participation Requirements

§2907. Individual Participation Requirements

A. ...

B. ...

1. A single parent/caretaker eligible for cash assistance is required to participate at least 30 hours per week, with not fewer than 20 hours per week attributable to an activity described in §2911.A.1,2,3,4,5,9 or 10.

2. - 3. ...

4. A parent/caretaker under age 20 is deemed to be meeting participation requirements if that parent/caretaker:

a. maintains satisfactory attendance in an activity described in §2911.A.6; or

b. participates in an activity described in §2911.A.7 for a monthly average of 20 hours per week.

5. ...

6. No more than 30 percent of individuals in all families and in two-parent families, respectively, who meet countable participation requirements in a month, may consist of:

a. individuals who meet countable participation requirements in an activity described in §2911.A.5; or

b. individuals who are deemed to be meeting participation requirements as described in §2907.B.4.

C. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P. L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April 1993), LR 19:1177 (September 1993), LR 23:450 (April 1997), LR 24:1781 (September 1998), LR 25:

Gwendolyn P. Hamilton
Secretary

9909#078

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

1999 Commercial Red Snapper Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:6(25)(a) and R.S. 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in its resolution of August 5, 1999 to change the opening dates and closing dates for the commercial red snapper season in Louisiana state waters when he is informed by the Regional Administrator of the National Marine Fisheries Service (NMFS) that the season dates for the commercial harvest of red snapper in the federal waters of the Gulf of Mexico have been modified, and that the Regional Administrator of NMFS requests that the seasons be modified in Louisiana state waters, the Secretary hereby declares:

The season for the commercial fishery for red snapper in Louisiana state waters will open at 12:00 noon September 1, 1999. The commercial fishery for red snapper in Louisiana state waters will close at 12:00 noon September 10, 1999. The commercial season for red snapper harvest in Louisiana state waters will also reopen at 12:00 noon October 1, 1999 and close at 12:00 noon on October 10, and thereafter open

at 12:00 noon on the first of each month and close at 12:00 noon on the tenth of each month, for each month of 1999 until the remainder of the 1999 commercial quota is harvested.

The Secretary has been notified by NMFS that the 1999 fall commercial season for red snapper in federal waters has been modified and will be open the first ten days of each month until the quota is met. Modifying the season dates in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

Effective with any closure, no person shall commercially harvest, transport, 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. Provided however that fish in excess of the daily bag limit which were legally taken prior to the closure may be purchased, possessed, transported, and sold by a licensed wholesale/retail dealer if appropriate records in accordance with R.S. 56:306.5 are properly maintained, and those other than wholesale/retail dealers may purchase such fish in excess of the daily bag limit from wholesale/retail dealers for their own use or for sale by a restaurant as prepared fish.

James H. Jenkins, Jr.
Secretary

9909#016

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

1999 Recreational Red Snapper Season

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

Effective 12:01 a.m., August 29, 1999, the recreational fishery for red snapper in Louisiana waters will close. Effective with the closure, the recreational bag limit is reduced to zero and no person shall take or possess red snapper, recreationally taken after the closure, within the State of Louisiana.

The Secretary has been notified by NMFS that the recreational red snapper season in Federal waters will close

on that date. Closing the season in State waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

9909#003

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Fur Harvest Season—1999-2000

In accordance with the provisions of R.S. 56:259(A) which authorizes the Wildlife and Fisheries Commission to set the open season for the taking of non-game quadrupeds and allows the commission to extend, curtail or prohibit trapping in any area of the state each year and in accordance with emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Louisiana Wildlife and Fisheries Commission to use emergency provisions to set seasons, the Wildlife and Fisheries Commission does hereby set the 1999-2000 fur harvest season, statewide from November 20, 1999 through March 31, 2000. The Wildlife and Fisheries Commission does hereby also authorize the Secretary of the Department of Wildlife and Fisheries to extend or shorten the adopted season.

Bill A. Busbice, Jr.
Chairman

9909#021

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

King Mackerel Commercial Closure

The king mackerel fishery in the Gulf of Mexico is cooperatively managed by the Wildlife and Fisheries Commission, the Department of Wildlife and Fisheries (LDWF), and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally three miles offshore. Rules were recently established by NMFS to close the commercial harvest seasons for king mackerel in the EEZ off of Louisiana, and NMFS and the Gulf Council requested that consistent regulations be established in Louisiana waters. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use

emergency procedures to set finfish seasons, R.S. 56:6(25)(a) and R.S. 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby sets the following seasons for commercial harvest of king mackerel in Louisiana state waters:

The season for the commercial fishery for king mackerel in Louisiana state waters will close at 12:01 a.m., September 6, 1999; the season shall remain closed until 12:01 a.m. on July 1, 2000.

The Commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to open an additional commercial king mackerel season in Louisiana state waters if he is informed by the Regional Director of the National Marine Fisheries Service (NMFS) that the season dates for the commercial harvest of king mackerel in the federal waters of the western Gulf of Mexico as set out herein have been modified, and that the Regional Director of NMFS requests that the season be modified in Louisiana state waters and to close such season when he is informed that the commercial king mackerel quota for the western Gulf of Mexico has been filled, or is projected to be filled.

Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with any closure, no person shall commercially harvest, transport, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel. Effective with the closure, no person shall possess king mackerel in excess of a daily bag limit. Provided, however, that fish in excess of the daily bag limit which were legally taken prior to the closure may be purchased, possessed, transported, and sold by a licensed wholesale/retail dealer if appropriate records in accordance with R.S. 56:306.5 are properly maintained, and those other than wholesale/retail dealers may purchase such fish in excess of the daily bag limit from wholesale/retail dealers for their own use or for sale by a restaurant as prepared fish.

Bill A. Busbice, Jr.
Chairman

9909#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Large Coastal Shark Commercial Season Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:6(25)(a) and R.S. 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in its rule LAC 76:VII.357.A.12.b which allows the Secretary to declare a closed season when he is informed that the commercial large coastal shark seasonal quota for that species group and fishery has been met in the

Gulf of Mexico, and that such closure order shall close the season until the date projected for the re-opening of that fishery in the adjacent Federal waters, and to modify any such closure order to maintain consistency with re-opening dates in the adjacent Federal waters, should the Federal closure dates be modified, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective September 1, 1999, the commercial fishery for large coastal sharks in Louisiana waters, as described in LAC 76:VII.357.A.1.b (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, bignose shark, blacktip shark, bull shark, Caribbean reef shark, dusky shark, Galapagos shark, lemon shark, narrowtooth shark, night shark, sandbar shark, silky shark, spinner shark and tiger shark) will open and remain open through 11:30 p.m., September 30, 1999. Nothing herein shall preclude the legal harvest of large coastal sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with the closure, no person shall commercially harvest, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks or fins thereof. Also effective with the closure, no person shall possess large coastal sharks in excess of a daily bag limit, which may only be in possession during the open recreational season as described above. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing large coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5.

The Secretary has been notified by the National Marine Fisheries Service that the second semiannual subquota for large coastal sharks has not been reached and that the Federal season modification is necessary to ensure adequate opportunity for eligible fishery participants to harvest the available quota and to ensure that the adjusted semiannual quota for large coastal sharks for the period July 1 through December 31, 1999 is not exceeded.

James H. Jenkins, Jr.
Secretary

9909#015

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Waterfowl Season Dates—1999-2000

In accordance with the emergency provision of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following emergency rule.

The hunting seasons for Ducks, Coots and Geese during the 1999-2000 hunting season shall be as follows:

Season Dates for Ducks, Coots and Geese

DUCKS AND COOTS:

West Zone: November 13—November 28
December 11—January 23

East Zone: November 13—November 28
December 11—January 23

Catahoula Lake Zone: November 13—November 28
December 11—January 23

Youth Waterfowl Day—December 4 in West Zone
January 29 in East Zone

Daily Bag Limits—The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 1 black duck, 2 wood ducks, 1 pintail, 1 canvasback, 3 scaup and 2 redheads. Daily bag limit on coots is 15.

Mergansers—The daily bag limit for mergansers is 5, only 1 of which may be a hooded merganser. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit—The possession limit on ducks, coots and mergansers is twice the daily bag limit.

GEESE: LIGHT GEESE (SNOW AND BLUE):

East Zone: October 30—February 13

West Zone: November 13—February 27

Daily bag limit (snow and blue) 20

Possession limit (snow and blue) None

WHITE-FRONTED (SPECKLE BELLIES):

East Zone: October 30—January 23

West Zone: November 13—February 6

Daily Bag limit (speckle bellies) 2

Possession limit (speckle bellies) 4

During the Canada Goose Season (January 18—January 26), the daily bag limit for Canada geese shall be one and 2 white-fronted geese, EXCEPT during the last 3 days (January 24—26) in the east zone, when only one Canada goose may be taken. Possession limit is twice the daily bag limit.

CANADA GEESE: CLOSED IN THE AREA DESCRIBED BELOW

January 18—January 26

During the Canada Goose Season, the daily bag limit for Canada geese shall be one and 2 white-fronted geese, EXCEPT during the last 3 days (January 24—26) in the east zone, when only one Canada goose may be taken. Possession limit is twice the daily bag limit.

The Canada Goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows:

Beginning at the Texas State Line, proceeding east along Highway 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with La. Highway 82, then south along La. Highway 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the

Texas State Line, then north to the point of beginning at La. Hwy. 82.

A special permit shall be required to participate in the Canada Goose Season. A permit is required of everyone, regardless of age, and a non-refundable \$5 administrative fee will be charged. This permit may be obtained from any District Office.

Return of harvest information requested on permit is mandatory. Failure to submit this information to the Department by February 15, 2000 will result in the hunter not being allowed to participate in the Canada Goose Season the following year.

RAILS:

November 13—January 5

KING AND CLAPPER:

Daily bag limit 15 in the aggregate

Possession 30

SORA AND VIRGINIA:

Daily bag and possession 25 in the aggregate.

GALLINULES:

November 13—January 5

Daily bag limit 15

Possession limit 30

Shooting Hours: one-half hour before sunrise to sunset.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective October 25, 1999 and extend through sunset on March 20, 2000.

Bill A. Busbice, Jr.
Chairman

9909#022

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Seed Commission

Seed Law—Application Deadlines; Fees; Sweet Potato Standards; Greenhouse Requirements
(LAC 7:XIII.131, 143, and 222)

In accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Louisiana Seed Commission, adopts regulations regarding virus-tested sweet potato certification standards and general seed certification requirements.

The Department of Agriculture and Forestry, Louisiana Seed Commission adopts these rules and regulations for the purpose of increasing the availability of virus-tested sweet potato seed for Louisiana producers. These regulations provide a mechanism to maintain the genetic and physical quality of virus-tested sweet potato plants and seed. These rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter B. General Seed Certification Requirements

§131. Application Deadlines

- A. - D. ...
- E. Watermelon, tissue culture sugarcane - May 1
- F. Sweet potatoes and sweet potato plants
 - 1. Greenhouse plantings (virus-tested) - 45 days prior to planting
 - 2. Field plantings - June 1

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), repealed and readopted by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), amended LR 13:155 (March 1987), LR 12:232 (April 1987), LR 14:603 (September 1988), LR 23:1283 (October 1997), LR 25:1616 (September 1999).

§143. Fees

- A. - D.6. ...
- E. Fees for Sweet Potatoes
 - 1. The fee for greenhouse inspections of virus-tested sweet potato plants and mini-roots shall be fifty (50) dollars per crop year.
 - 2. A fee of five cents per 1,000 plants will be collected for each 1,000 sweet potato plants inspected for certification purposes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 10:495 (July, 1984); repealed and readopted by the Department of Agriculture and Forestry, Seed Commission LR 12:825 (December 1986), amended LR 14:604 (September 1988), amended LR 16:847 (October 1990), LR 25:1617 (September 1999).

Subchapter C. Certification of Specific Crops/Varieties

§222. Virus-Tested Sweet Potato Certification

Standards

A. Explanation of General Standards as Applied to Sweet Potatoes

1. The general "seed" certification standards as adopted are basic and together with the following specific standards constitute the standards for certification of virus-tested sweet potatoes.

2. Definitions

Mericlones—all plants clonally propagated from a single meristem tip. For example, mericlone B-63 includes all plants descended from the sixty-third meristem-tip culture derived from the variety Beauregard.

Micropropagated—is the art and science of plant multiplication in vitro. The process includes many steps stock plant care, explant selection and sterilization, media manipulation to obtain proliferation, rooting, acclimation, and growing on. Sweet potato is most commonly micropropagated in tissue culture by aseptic transfer of stem segments containing 1-3 nodes to sterile tissue culture medium.

Vine Cutting—sections preferably 8-12 inches in length cut from vines that can be transplanted in the greenhouse or field. All such cuttings will be made at least one inch above the surface of the soil or growing medium, slips that have been pulled are not to be used to avoid the possibility of carrying pathogens or insects that can be present on stems below the soil surface.

Virus-Tested—a plant that has been previously tested for the presence of viruses on at least three separate occasions by grafting to the standard indicator plant for sweet potato viruses, the Brazilian morning glory (*Ipomoea setosa*). If the plant is found to be negative (no symptoms developed on the indicator) each time, it is considered *virus-tested* since it is not possible to absolutely prove the absence of any and all viruses.

3. The general standards are further defined as follows to apply specifically to *virus-tested* sweet potatoes. Classes and sources of certified "seed" are defined as follows.

a. *Source Seed*—shall be material entering the Louisiana Agricultural Experiment Station (LAES) seed program obtained by methods acceptable to the Louisiana Department of Agriculture and Forestry (LDAF).

b. *Nuclear Stock Plants*—shall be *source seed* that has been micropropagated, *virus-tested*, apparently free of other pests, and evaluated in field test for trueness to variety. This material shall be maintained under strict isolation in laboratory facilities maintained by LAES and/or any

contracted micropropagation provider and approved by LDAF. The facilities shall be in a clean, dust-free building and be separated from any greenhouse or sweet potato storage operations. This building shall be at least 250 feet from any sweet potato field or greenhouse.

c. *Foundation Plants*—shall be greenhouse plants, produced by the LAES from *nuclear stock plants* that are *virus-tested* and recognized by LDAF. These plants must be grown under strict isolation in screen cages in which only plants that are *virus-tested* are grown.

d. *Certified G0*—shall be greenhouse plants produced by certified greenhouse growers from Foundation Plants. *Certified G0* Plants will be propagated as follows.

i. *Mother Plants*—are the plants obtained from LAES. *Mother plants* will be kept isolated in screen cages. *Mother plants* may be cut repeatedly for up to no more than 5 months to produce *daughter plants*.

ii. *Daughter Plants*—are plants produced by cuttings from *mother plants*. *Daughter plants* may be cut repeatedly for up to no more than 5 months to produce additional *daughter plants*.

(a). All plants produced from these propagations will be designated as *certified G0* and may be used to establish *certified G1* field plantings.

iii. *Mini-Roots*—storage roots produced on plants grown in *certified G0* greenhouses may be used to establish *certified G2* field plantings.

(a). All plants, vine cuttings and roots produced from these mini-roots shall be designated as *certified G2*.

e. *Certified G1* (Field Generation 1)—*certified G1* plantings will be established from *certified G0* plants. Vine cuttings may be taken repeatedly from this original G1 planting, to establish a second G1 planting. Vine cuttings may be taken repeatedly from the second G1 planting to establish a third G1 planting. No additional plantings may be established from this third G1 planting.

(a). All vine cuttings and roots produced during this first year of field production shall be designated as *certified G1*.

f. *Certified G2* (Field Generation 2)—*certified G2* plantings will be established from *certified G1* stocks. Vine cuttings may be taken repeatedly from this original G2 planting, to establish a second G2 planting. Vine cuttings may be taken repeatedly from the second G2 planting, to establish a third G2 planting. No additional plantings may be established from this third G2 planting.

(a). All vine cuttings and roots produced during this second year of field production shall be designated as *certified G2*.

g. *Certified G3* (Field Generation 3)—*certified G3* plantings will be established from *certified G2* stocks. Vine cuttings may be taken repeatedly from this original G3 planting, to establish a second G3 planting. Vine cuttings may be taken repeatedly from the second G3 planting to establish a third G3 planting. No additional plantings may be established from this third G3 planting.

(a). All vine cuttings and roots produced during this third year of field production shall be designated as *certified G3*.

B. Greenhouse Requirements

1. Production

a. *Mother plants* will be kept isolated in screen cages.

b. For Greenhouse production it is required that:

i. entry shall be through double doors;

ii. a system for sanitizing hands and feet shall be in place;

iii. doors shall be kept locked;

iv. yellow sticky traps shall be used to monitor aphids and other insects;

v. screens of such mesh as to prevent entry of aphids shall be placed over all openings (vents, fans, windows, etc.);

vi. greenhouses shall be clearly marked to warn workers that they shall not enter, if they are coming from the field or from other noncertified greenhouses;

vii. aphids, whiteflies or other insects with sucking, mouthparts shall be controlled;

viii. decontaminate cutting tools on a regular basis and always when moving to another group of stock plants or plant lots;

ix. all growing medium (e.g. soil), containers, etc. used in the greenhouse must be sanitized by a method approved by LDAF;

x. all plants shall be removed from the greenhouse and the greenhouse kept free of plants for a minimum of 6 weeks between crop years.

c. Isolation

i. There shall be no plants growing within 10 feet of the greenhouse (grass for stabilization will be permitted, but weeds must be controlled).

ii. No other plants are allowed in the greenhouse.

iii. Greenhouses should be as far away as possible from sweet potato storage sheds, cull piles or other potential sources of sweet potato viruses.

d. Different varieties or mericlones must be clearly identified and separated.

e. LDAF must approve greenhouses before *mother plants* will be released to the grower.

2. Inspections

a. Grower

i. Producer will inspect vines twice weekly. If symptomatic plants are found, they will be removed and destroyed and parent plants will be inspected for disease symptoms. The grower will keep a log showing that inspections were made and if plants were removed.

ii. There will be a weekly inspection in and around the greenhouse perimeters to ensure isolation standards are being met.

iii. If problems are observed during weekly inspections the producer should notify LDAF.

b. LDAF

i. LDAF will inspect certified greenhouses several times during the year as needed. If symptomatic plants are found during these inspections they must be rogued and disposed of properly.

ii. Once shipping of plants begins, final certification will not be allowed if symptomatic plants are found.

3. Inspection Standards

a. General Requirements

i. Unit of Certification shall be the entire greenhouse and such unit cannot be divided for the purpose for certification.

ii. Isolation requirements are described in 222.B.1.c.

iii. Increase requirements are described in 222.A.3.

b. Specific Greenhouse Requirements

Presence or Symptoms of:	Maximum Tolerance Allowed	
	Foundation (LAES)	Certified GO
Bacterial Stem Rot (<i>Erwinia chrysanthemi</i>)*	0	0
Black Rot (<i>Ceratocystis fimbriata</i>)*	0	0
Scurf (<i>Monilochaetes infuscans</i>)*	0	0
Root-Knot Nematode (<i>Meloidogyne</i> spp.)	0	0
Feathery Mottle (sweet potato feathery mottle virus [SPFMV])*	0	0
Russet Crack (a strain of SPFMV)*	0	0
Internal Cork (a virus)*	0	0
Wilt (<i>Fusarium oxysporum</i> f. sp. <i>batatas</i>)*	0	0
Sweet Potato Weevil (<i>Cylas formicarius</i> var. <i>elegantulus</i>)	0	0
Variety mixture	0	0
Off-types (mutations)	0	0

*Plants or mini-roots exhibiting symptoms

C. Field Requirements

1. Production

a. All sweet potatoes produced in a field for certification must be grown from virus-tested stock.

b. Virus-tested C1 sweet potato "seed" will not be eligible for certification if produced on land which:

- i. has produced sweet potatoes in the last 2 years;
- ii. has received manure or sweet potato residue in the last 2 years;
- iii. is subject to drainage from fields in which sweet potatoes have been grown in the last 2 years.

c. Isolation

i. Virus-tested sweet potato "seed" production fields shall be 750 feet from other sweet potatoes.

ii. An approved program shall be in place to control perennial plants of morning glories (e.g. *Ipomoea pandurata*, Bigroot Morning Glory, *Ipomoea cordatotriloba* sharp-pod or cotton Morning Glory), and volunteer sweet potato plants.

d. Different varieties or mericlones will be clearly identified and separated from each other by 20 feet.

e. Each unit of sweet potatoes that passed field inspection shall be marked or labeled at harvest to correspond with the field unit.

2. Inspections

a. The grower should inspect fields regularly during the growing season and remove any symptomatic plants that are found. LDAF should be informed if any problems are found.

b. At least two inspections by LDAF will be made during the growing season; others will be made if necessary.

i. At least one seed bed inspection will be made when applicable.

ii. First field inspection shall be made before vines have covered the ground so that symptomatic plants may be easily identified. Roguing will consist of pulling up the symptomatic plants, bagging them, and removing them from the field.

iii. Final inspection shall be made near to harvest.

3. Inspection Standards

a. General requirements

i. Unit of certification for production is a field and such unit cannot be divided for the purpose for certification.

ii. Isolation requirements are described in §222.C.1.c.

iii. If the "seed" of two virus-tested varieties are grown in the same field, they must be clearly identified and separated by at least 20 feet.

iv. Land requirement for certified C1 fields is subject to §222.C.1.b. Land requirement for certified C2 and C3 fields is 2 years.

b. Specific Field Requirements (Vine Inspection)

Presence or symptoms of:	Maximum Tolerance Allowed		
	Certified G1	Certified G2	Certified G3
Bacterial Stem Rot (<i>Erwinia chrysanthemi</i>)	none	none	none
Wilt (<i>Fusarium oxysporum</i> f. sp <i>batatas</i>)	none	none	none
Exotic or Hazardous Pests	none	none	none
Variety Mixture	none	none	none
Off-types (mutations) 0.05%	0.05%	0.10%	

D. Storage Requirements

1. Before sweet potatoes grown for certification can be stored, the storage house must be cleaned and disinfected in a manner approved by LDAF.

2. Sweet potatoes grown for certification shall be stored in new containers (crates, pallet boxes, etc.) or used containers that have been disinfected and decontaminated in a manner approved by LDAF.

3. Certified seed roots shall be stored in a separate room from any noncertified roots.

4. Sweet potatoes from different field units shall be separated in storage by an aisle at least two feet wide.

5. A minimum of 20 percent of each lot of sweet potatoes entered for certification shall be inspected by LDAF during the storage inspection.

E. Standards for Plant and Root "Seed"

1. Plants:

a. apparently free of injurious disease, insects, or other pests;

- b. true to variety characteristics;
- c. of good color, fresh, firm, and strong;
- d. of satisfactory size for commercial planting (cuttings approximately 8" - 12" long);
- e. cuttings will be loosely packed and shipped in an upright position in boxes;
- f. cuttings will not be shipped with other non-program plants.

2. Seed Roots

- a. One storage inspection shall be made after harvest.
- b. Sweet potatoes for certification must be well shaped. The minimum size shall be one inch in diameter and four inches in length, 30 ounces maximum weight.
- c. Specific Seed Root Standards

Maximum Tolerance Allowed

Presence or Symptoms of:	Maximum Tolerance Allowed		
	Certified G1	Certified G2	Certified G3
Surface Rots (<i>Fusarium</i> spp.) & Soft Rots (<i>Rhizopus</i> spp.)	5%	5%	5%
Bacterial Root Rot (<i>Erwinia</i> spp.)	none	none	none
Black Rot (<i>Ceratocystis fimbriata</i>)	none	none	none
Scurf (<i>Monilochaetes infuscans</i>)	1.0%	1.0%	2.0%
Steptomcyes Soil Rot (<i>Streptomyces ipomoeae</i>)	2.5%	2.5%	5.0%
Root-Knot Nematode (<i>Meloidgyne</i> spp.)	5.0%	5.0%	5.0%
Russet Crack (a stain of SPFMV)	none	none	none
Internal Cork (a virus)	none	none	none
Wilt (<i>Fusarium oxysporum</i> f. sp. <i>batatas</i>)	none	none	none

F. Certificate Reporting System

1. The grower will be furnished numbered certificates of certification by the Louisiana Department of Agriculture and Forestry and shall:

- a. issue a copy of the certificate to the purchaser for each shipment;
- b. send a copy of each issued certificate to the Louisiana Department of Agriculture and Forestry within 10 days after each sale; and
- c. maintain a copy of each issued certificate on file.

G. Sweet Potato Weevil Quarantine Area

1. Sweet potato plants grown in a sweet potato-weevil quarantine area will be approved for seed or plant sources for use only within the quarantined area if:

- a. all requirements for certification are met; and
- b. there are no sweet potato weevils within a two-mile radius of the field or storage house.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 25:1617 (September 1999).

Bob Odom
Commissioner

9909#032

RULE

**Department of Agriculture and Forestry
Structural Pest Control Commission**

**Minimum Specifications for Termite Control Work
(LAC 7:XXV.141)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, amends regulations regarding pre-treatments of slabs for termites.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to increase the distance that wood parts must be above ground level, provide that a waiver of minimum specifications for termite control work be secured by the customer, and that pest control operators must monitor for termites prior to making bait toxicant applications around residential, day care, and nursing home properties, thus providing a safety factor to those individuals at these properties. These rules comply with and are enabled by LSA-R.S. 3:3203.

Title 7

**AGRICULTURE AND ANIMALS
Part XXV. Structural Pest Control**

**Chapter 1. Structural Pest Control Commission
§141. Minimum Specifications for Termite Control Work**

A. - C.2.c. ...

3. Elimination of Direct Contact of Wood with Ground

a. Piers and stiff legs must have concrete or metal-capped bases extending at least three inches above the ground. Creosote or penta pressure-treated piling foundations are exempt from this requirement but should be drilled and pressure treated to the center of the piling.

b. Wood parts which extend through concrete or masonry (such as posts, door frames or stair carriages) must be cut off and set on metal or concrete bases at least three inches above ground level.

c. - 8.b. ...

9. Dirt Filled Porches

a. Where the sill or other wood extends to, or below, the under side of the concrete slab, the dirt must be excavated so as to leave a horizontal tunnel at the junction of slab and foundation wall. The tunnel shall extend the full length of the fill and be at least 12 inches deep (or down to grade) and 12 inches wide. Soil in the tunnel shall be treated with chemical at all points of contact with wall and slab. Supports for the slab shall be erected in the tunnel if

necessary. Tunnel shall be well ventilated, but care shall be taken to assure that water does not run into those tunnels.

(See Figure 1 [in appendix])

Exception: If, due to construction, it is impractical to break into and excavate dirt-filled areas, a method of drilling, rodding and flooding as outlined in §141.C.9.b.ii below, may be employed.

b. - H.2. ...

I. Waiver of Requirements of Minimum Specifications for Termite Control Work. Whenever it is impossible or impractical to treat any structure in accordance with these minimum specifications, the pest control operator may request a waiver of these requirements. A waiver must be secured from the customer prior to any treatment in any instance where all requirements of these minimum specifications cannot be complied with.

1. - 8.c. ...

d. monitoring shall be used to detect the presence of subterranean termites in the soil. All delivery systems shall be inspected at regular intervals, not less than once monthly and data shall be recorded;

e. baits and baiting systems may be used as a stand-alone termite treatment only with written approval by LDAF;

f. baits and baiting systems may be used as a supplement to traditional ground termiticide treatments;

g. monitoring stations shall be placed, where soil is available, a minimum of twenty (20) feet apart around the perimeter of the structure;

h. toxicant delivery following label and labeling shall be placed in or in close proximity to each monitoring station that is infested with live termites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:1620 (September 1999).

Bob Odom
Commissioner

9909#031

RULE

Board of Elementary and Secondary Education

Bulletin 1868—Personnel Manual (LAC 28:I.922)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the State Board of Elementary and Secondary Education adopted an amendment to Bulletin 1868, BESE Personnel Manual, Chapter E: Employee Benefits. Bulletin 1868 is referenced in LAC 28:I.922. The revision addresses the issue of payment of accrued annual leave (up to 300 hours) for SSD #1 and BESE Special Schools, upon separation from employment.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§922. Personnel Policies**

A. Bulletin 1868

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(a)(10); R.S. 17:6(B); R.S. 17:7(5); R.S. 17:7(10); R.S.17:81.4; R.S. 17:1941-1956; R.S. 17:1993; H. B. 239 of 1994.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16:297 (April 1990), amended LR 21:163 (February 1995), LR 22:3 (January 1996), LR 24:434 (March 1998), LR 25:1621 (September 1999).

Chapter E: Employee Benefits

153: Leave

**A. Board Special Schools and Special School District #1
Part I: Certificated Staff/Paraeducator Leave Plan**

C. Annual Leave

1. - 4.d. ...

e. Employees who must be absent, without prior approval, for non-illness reasons will be charged with personal leave if they possess such leave. Lacking personal leave, annual leave will be used.

5. When an employee changes employment from a Board Special School, Special School District #1 school, or a Louisiana public school system to a Board Special School, Special School District #1, or Louisiana Technical College System, the accumulated annual leave balance shall be carried forward to the new school and shall be credited to the employee.

6. Upon resignation, death, removal or other termination of employment of an unclassified employee, annual leave amounting to the same maximum as is provided in the Civil Service Rules for classified employees, and accrued to the employee's credit shall be computed and the value thereof shall be paid to him/her or the heirs, provided that the annual leave has been accrued under established leave regulations and an attendance record has been maintained for the employee by the supervisor. Such pay shall be computed on the employee's base rate of pay at the time of termination.

7. When an employee terminates employment and has used annual leave hours in excess of what was earned by the time of separation, the applicable school shall deduct the amount of money due from the last pay check and/or the employee shall pay in cash to the school the amount due, according to the following formula:

Hourly rate of pay X (times) number of annual leave hours used but not earned.

Weegie Peabody
Executive Director

9909#049

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Emission Reduction Credits Banking
(LAC 33:III.603, 605, 607, 613, 615, and 621)(AQ190)

Editor's Note: Due to reengineering at the Department of Environmental Quality effective July 1, 1999, the Office and Division names have been changed in the Rule heading and the Historical Note for each section in this rule. The contents of the notice and the rule have not changed, with the exception of technical amendments to the proposed rule.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.603, 605, 607, 613, 615, and 621 (AQ190).

The EPA promulgated the new ozone national ambient air quality standards (NAAQS) on July 18, 1998, which became effective on July 18, 1999. This rule accommodates ozone nonattainment classifications resulting from the new NAAQS. It also corrects a typographical error for the date on which emission credits begin their 10-year life and clarifies the use for emission credits having a 10-year life. The basis and rationale for this proposed rule are to assist the department in meeting air quality management goals through flexible approaches that benefit both the environment and the regulated entities, allow for less costly control strategies, and provide stronger incentives for the development and implementation of pollution prevention measures and innovative emission reduction technology.

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 6. Regulations on Control of Emissions
Through the Use of Emission Reduction
Credits Banking**

§603. Applicability

Sources in EPA-designated ozone nonattainment areas must participate in the emissions banking program in order to utilize emission reductions for netting or as offsets. Sources in EPA-designated ozone attainment areas may participate in the emissions banking program. If a source in an attainment area participates in the emissions banking program, the source must submit the annual submission required by LAC 33:III.613.D. The following sources in ozone nonattainment parishes are eligible to participate in the emissions banking program: any stationary point source, any area source, and any registered mobile source. The following sources in ozone attainment parishes are eligible to participate in the emissions banking program: any stationary point source and any area source. The rule shall apply to the following pollutants: NO_x and VOC.

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 20:874 (August 1994), amended LR 24:2239 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999).

§605. Definitions

The terms used in this Chapter are defined in LAC 33:III.111 of these regulations except as defined within the separate subchapters or as follows:

[See Prior Text]

Area Source—any small residential, governmental, institutional, commercial, or industrial fuel combustion operation; on-site solid waste disposal facilities; aircraft vessels, or other transportation facilities, or other miscellaneous sources identified through inventory techniques similar to those described in the Aerometric Emissions Reporting System (AEROS) Manual (see 40 CFR 51.100).

[See Prior Text]

Registered Mobile Source—any vehicle registered and insured by the owner (without change of ownership) at an address within the nonattainment area continuously for at least 12 months prior to the date the vehicle is purchased.

[See Prior Text]

Stationary Point Source—any building, structure, facility, or installation that emits or may emit any air pollutant subject to regulation under the Clean Air Act.

[See Prior Text]

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 20:874 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999).

§607. Stationary Point Source Emission Reductions

[See Prior Text in A-A.1]

- a. volatile organic compounds (VOCs); and
- b. nitrogen oxides (NO_x).

[See Prior Text in A.2-D]

E. Geographic Areas. Emissions are banked by geographic areas, usually individual parishes. Separate accounts shall be maintained (either by parish or by EPA-designated geographic area) for ozone nonattainment areas and ozone attainment areas. Each area, shall maintain separate accounts for NO_x and for VOCs.

[See Prior Text in F-G.4]

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 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1522 (September 1999).

§613. ERC Bank Balance Sheet

[See Prior Text in A-C]

D. Schedule. All applications for banking ERCs in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge where the emission reductions occurred before August 20, 1994, must have been submitted prior to January 20, 1995. First-time applications for banking ERCs for attainment parishes may be submitted at any time. If a parish is redesignated as ozone nonattainment by the EPA, applications for banking ERCs for those parishes must be submitted within six months after the effective date of the EPA designation. All applications for banking ERCs where the emission reductions occurred after the date this banking rule was adopted for an area shall be submitted by March 1 following the year in which the reduction occurred. The balances (i.e., the balance available for netting and the balance available for offsets) from the ERC bank balance sheets of Subsection A of this Section shall be submitted to the department by March 1 of each year together with the certification specified in Subsection E of this Section. All emission reductions must meet the timing restrictions set forth in LAC 33:III.607.D in order to be eligible for banking as ERCs.

[See Prior Text in E-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999).

§615. Schedule for Submitting Applications

[See Prior Text in A]

B. All applications for banking ERCs in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge where the emission reductions occurred before August 20, 1994, must have been submitted prior to January 20, 1995. First-time applications for banking ERCs for attainment parishes may be submitted at any time. If a parish is redesignated as ozone nonattainment by the EPA, application for banking ERCs for those parishes must be submitted within six months after the effective date of the EPA designation. Once a banking application has been filed, the bank balance and the applicant's certification should be submitted annually on March 1.

C. Owner(s) or operator(s) of major sources in nonattainment areas with VOC or NO_x emission reductions not identified through the process described in Subsection B of this Section will be confiscated. A notification of confiscation will be sent by the department at such time that a permit modification or renewal is submitted using "unbanked" VOC or NO_x emission reductions described in Subsection B of this Section as offsets or for netting purposes.

[See Prior Text in D]

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 20:878 (August 1994), amended LR 21:681 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999).

§621. Protection of Banked ERCs

A. Only ERCs used as offsets are valid for 10 years from the date of their actual emission reduction to the atmosphere. ERCs can also be used for netting, but only during the contemporaneous period as specified in LAC 33:III.504.

[See Prior Text in B-B.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999).

Gus Von Bodungen, P.E.
Assistant Secretary

9909#051

RULE

Office of the Governor Division of Administration Office of Telecommunications Management

Telecommunications
(LAC 4:IX.Chapters 1-21)

The Division of Administration, Office of Telecommunications Management hereby adopts in accordance with R.S. 49:950 et seq., and R.S. 39:140-143 that it intends to amend LAC 4:IX relative to telecommunications.

Title 4

ADMINISTRATION

Part IX. Telecommunications

Chapter 1. General Provisions

§101. Title

These rules shall be known as the administrative rules and regulations of the Office of Telecommunications Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1623 (September 1999).

§103. Authority

These rules are adopted pursuant to R.S. 39:140-143 and R.S. 39:1751-1755.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1623 (September 1999).

§105. Purpose

The purpose is to establish overall policy and define areas of responsibility for the provision and management of

coordinated telecommunications services to support the programs of the Executive Branch of State government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1623 (September 1999).

§107. Scope

These rules apply to the Executive Branch of State government as defined in R.S. 36:3(1) and any and all entities, state or non-state, approved to utilize state telecommunications systems and telecommunications services. All groups may be referred to collectively hereafter as agency or agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1624 (September 1999).

Chapter 3. State Agencies' Responsibilities

§301. General

All agencies must comply with the requirements and standards stated in these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1624 (September 1999).

§303. Telecommunications Coordinator

All agencies shall appoint one or more representatives to be designated as the agency Telecommunications Coordinator(s). The Telecommunications Coordinator shall be recognized by the Office of Telecommunications Management as the agency's authorized representative for approving and coordinating telecommunications activity. Communications concerning policy and operating procedures will be directed to agencies through their respective Telecommunications Coordinator(s).

Training designed to instruct the Telecommunications Coordinator on the procedural aspects of interfacing with the Office of Telecommunications Management and the design and operation of various telecommunications systems will be furnished by the Office of Telecommunications Management upon request by agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1624 (September 1999).

§305. Telecommunications Problem Reporting

It is the agency's responsibility to report all repair problems to the Office of Telecommunications Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1624 (September 1999).

Chapter 5. Approval of Non-State Entity Use of State Telecommunications Services

§501. General

Non-state entities may be allowed to use state telecommunications services under particular circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1624 (September 1999).

§503. Approval Criteria

A. When one of the following criteria is met and upon approval of the Office of Telecommunications Management, non-state entities may use state telecommunications services. The non-state entities shall be either:

1. political subdivisions created by statute;
2. state credit unions;
3. Blind Services approved operators in state buildings;
4. the working press with offices in the State Capitol;
5. private educational institutions in the State of Louisiana with classes from kindergarten through 12th grade, and colleges and universities, when requesting access to the LaNet Wide Area Network for educational and/or research purposes; or
6. any non-state entity working in cooperation with the Louisiana Department of Labor's efforts to comply with the federal Workforce Investment Act of 1998 (Public Law 105-220).

B. A non-state entity may be required to supply documentation or evidence of its creation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1624 (September 1999).

§505. Charges

The non-state entities being allowed to use the state provided services will be charged the same rates as state agencies and must pay for the service within thirty days of receipt of the Office of Telecommunications Management invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1624 (September 1999).

§507. Availability and Usage Constraints

The use of the state services by the non-state entities shall not preclude any state agency from use of those services. The non-state entity's use of these services should not result in any additional unreimbursed cost to the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1624 (September 1999).

Chapter 7. Telecommunications Service Standards

§701. General

The State of Louisiana will utilize a statewide, consolidated concept of providing telecommunications services which are most cost effective and best meet the overall needs of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1625 (September 1999).

§703. Local Service Standards

The Office of Telecommunications Management will determine the means of providing telecommunications services to be used within a given metropolitan area. The selection of the service will be based on the best overall service alternative for that area. Agencies will be provided service through this metropolitan service vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1625 (September 1999).

§705. Long Distance Network Service Standards

The Office of Telecommunications Management will determine the means for providing long distance telephone service for each individual metropolitan area. State agencies will be provided service through this metropolitan service vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1625 (September 1999).

Chapter 9. Telecommunications Use

§901. General

All agencies are responsible for devising, implementing, and enforcing cost controls related to telephone usage and informing employees of such policies to preclude unnecessary and unauthorized charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1625 (September 1999).

§903. Authorized Use

State telecommunications systems and telecommunications services are provided for the conduct of state business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1625 (September 1999).

§ 905. Receiving Collect Telephone Calls

Collect calls shall not be accepted on state telephones.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1625 (September 1999).

§907. Calls Billed As a Third Number Call to State Telephone Numbers

Third number calls billed to state telephones are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1625 (September 1999).

§909. LINC Management Reporting

LINC management reporting shall be provided by the Office of Telecommunications Management to agency management when available to assist in monitoring and controlling the usage of long distance service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1625 (September 1999).

§911. Agency Usage Policy

Agency policy concerning telephone usage must be consistent with this Chapter and should be appropriate for the particular needs of each agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of

Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1625 (September 1999).

Chapter 11. Telecommunications Service Requests

§1101. Submission

All agency requests for telecommunications systems and/or telecommunications services must be submitted on the appropriate forms to the Office of Telecommunications Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1625 (September 1999).

Chapter 13. Telecommunications Charges

§1301. Charges for Services

The specific charges for each line of service provided will be published in the Office of Telecommunications Management's Catalog of Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1626 (September 1999).

Chapter 15. Directory Requirements

§1501. Responsibilities

The Office of Telecommunications Management will be responsible for the coordination and publication of all directory information for state telephone users. Respective agency Telecommunications Coordinators will be responsible for initiating directory listing changes and for verifying accuracy prior to publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1626 (September 1999).

Chapter 17. Telecommunications Procurement

§1701. Tariffs

When determined by the Office of Telecommunications Management to be in the best interest of the state and when available, general subscriber tariffs and related special billing assemblies may be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1626 (September 1999).

§1703. Contract Contents

The request for proposals, or the invitation to bid, and its addenda with the vendor's response shall be incorporated into the final contract consummated with that vendor. In the event of ambiguity, the order of precedence will be the

contract, the request for proposals or the invitation to bid, and the vendor's response.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1626 (September 1999).

§1705. Multi-Year Contract Use

Multi-year contract use must be justified and approved in writing. Such justification shall identify and consider all cost factors relevant to that contract. The multi-year method of contracting may be used in, but shall not be limited to, the following situations:

A. utility-type contracts; or

B. when it has been determined that vendors could provide lower unit prices over a longer period of time due to increased volume or lower production costs; or

C. when the cost and burden of contract solicitation, award, and administration of the procurement may be reduced; or

D. when the cost and burden of contract conversion or service implementation are excessive; or

E. when the Commissioner of Administration deems the use of a multi-year contract to be in the best interest of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1626 (September 1999).

Chapter 19. Vendor Responsibilities

§1901. General

All vendor contact for sales and service of telecommunications systems and telecommunications services shall be with the Office of Telecommunications Management and not directly with agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1626 (September 1999).

§1903. Bid Notification

It is each vendor's responsibility to notify the State Purchasing Office of its desire to receive notification of state telecommunications bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1626 (September 1999).

§1905. Telecommunications Contracts

Vendors shall not enter into any contract with any state agency for telecommunications systems or

telecommunications services without prior written approval from the Office of Telecommunications Management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1626 (September 1999).

Chapter 21. Waiver of Regulations

§2101. Commissioner's Authority to Waive Regulations

The Commissioner of Administration may waive in writing, upon the recommendation of the Office of Telecommunications Management, any provision in these rules when the best interest of the state will be served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), LR 25:1627 (September 1999).

Joseph A. Lanier
Director

9909#029

RULE

Department of Health and Hospitals Board of Nursing

Registration of Licenses and Certificates
(LAC 46:XLIX.1103)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators has amended the rules pertaining to annual registration and registration fees. The board finds it necessary to amend this rule to provide for annual registration periods and new registration fees in order to ensure continued protection of public health and continued compliance with Federal rules and regulations regarding Medicaid/Medicare.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 11. Licenses

§1103. Registration of Licenses and Certificates

A.1. Every person who holds a valid license as a nursing home administrator issued by the board shall immediately upon issuance thereof be deemed registered with the board and issued a certificate of registration. Thereafter, such individual shall annually apply to the board for a new certificate of registration and report any facts required by the board on forms provided for such purpose.

A.2. - 3. ...

B.1. Upon making an application for a new certificate of registration such licensee shall pay an annual registration fee

of \$245 and, at the same time, shall submit evidence satisfactory to the board that, during the annual period immediately preceding such application for registration, they have attended a continuing education program or course of study as provided in Chapter 9 of these rules and regulations. A copy of the certificate(s) of attendance for 15 hours of approved continuing education shall be attached to the annual re-registration application.

2. A licensed nursing home administrator no longer practicing in Louisiana may place his license in an inactive status. He shall continue to register his license annually but is exempt from continuing education requirements. Should a licensee wish to reactivate their license they shall undergo 60 days of on-site re-orientation under supervision of a board-approved preceptor, unless such person has been actively practicing in another state and meets Louisiana continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators LR 18:181 (February 1992), amended LR 25:1627 (September 1999).

Kemp Wright
Executive Director

9909#038

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Expired Drugs (LAC 46:LXXXV.705)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.705 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, La. R.S. 37:1518 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§705. Prescribing and Dispensing Drugs

A. - G. ...

H. It shall be a violation of the rules of professional conduct under R.S. 37:1526(14) for a veterinarian in the course of his veterinary practice to use or dispense any products, including drugs, which are expired.

I. It shall be a violation of the rules of professional conduct under R.S. 37:1526(14) for a veterinarian to be in possession of drugs or other medical products which are over six months past their expiration date unless the materials are obviously removed from use and it can be documented that said drugs are in the process of being returned or otherwise disposed of.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71

(February 1980), amended LR 16:226 (March 1990), LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:1686 (December 1997), LR 24:1932 (October 1998), LR 25:1627 (September 1999).

Kimberly B. Barbier
Administrative Director

9909#012

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Partnerships, Corporations, and Limited Liability Companies
(LAC 46:LXXXV.1015)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.1015 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, La. R.S. 37:1518 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 10. Rules of Professional Conduct

§1015. Partnerships, Corporations, and Limited Liability Companies

In the formation of partnerships, corporations, or limited liability companies for the practice of veterinary medicine, no person shall be admitted as a partner or owner who is not a member of the veterinary profession, duly licensed to practice in this state, and amenable to professional discipline. No person shall be held out as a practitioner of veterinary medicine or a member of the firm who is not so admitted. In the selection and use of a firm name, no false or misleading name shall be used. Partnerships between veterinarians and members of other professions or nonprofessional persons shall not be formed or permitted if a part of the partnership employment consists of the practice of veterinary medicine. Corporations or limited liability companies created or owned by licensed veterinarians in conjunction with non-veterinarians shall not be permitted if a part of the company's function consists of the practice of veterinary medicine

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:229 (March 1990), amended LR 25:1628 (September 1999).

Kimberly B. Barbier
Administrative Director

9909#013

RULE

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

Eligibility—Louisiana Children's Health
Insurance Program (LaCHIP)

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the second phase of the Louisiana Children's Health Insurance Program (LaCHIP) effective October 1, 1999 by expanding coverage under the Medicaid Program to uninsured children, birth through age nineteen, whose family income is between 133 percent and 150 percent of the federal poverty level (FPL). This expansion is in compliance with section 4901 of the Balanced Budget Act of 1997 which enacted Title XXI of the Social Security Act, Act 128 of the First Extraordinary Session of the 1998 Louisiana Legislature which enacted the LaCHIP Program, and Senate Bill No. 256 and the General Appropriation Act of the 1999 Regular Session of the Louisiana Legislature which authorizes the funding for the expansion. All other requirements for LaCHIP eligibility will remain the same.

David W. Hood
Secretary

9909#045

RULE

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

Eligibility—Presumptive Eligibility Certification Period

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the length of the presumptive eligibility period when the pregnant woman does not file a standard Medicaid

application after being determined presumptively eligible. If a presumptively eligible pregnant woman does not file an application for Medicaid by the last day of the month following the month in which she is determined presumptively eligible, her presumptive eligibility ends on that last day. If she files an application timely, her presumptive eligibility certification stays open until a decision is made.

David W. Hood
Secretary

9909#046

RULE
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 adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing programmatic allocation of waiver slots for the Mentally Retarded/Developmentally Disabled Waiver contained in the March 20, 1998 rule as follows:

Programmatic Allocation of Waiver Slots. The waiting list shall be used to protect the individual's right to be evaluated for waiver eligibility. The Regional 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 he/she is next in line to be evaluated for possible waiver slot assignment. The OCDD staff shall follow the procedures established by the Division of Home and Community-Based Waivers (DHCBW) as part of the application process. The individual then chooses a case manager who will assist in the gathering of the documents needed for both the financial eligibility and medical certification 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 identified. 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. A minimum of 80 slots shall be available for allocation to foster children in the custody of the Office of Community Services (OCS) who successfully complete the financial and medical certification eligibility process and are certified for the waiver. OCS is the guardian for those

children who have been placed in their custody by court order. OCS shall be responsible for assisting the individual to gather the documents needed in the eligibility determination process; preparing the comprehensive plan of care; and submitting the plan of care document to DHCBW.

2. A minimum of 160 slots shall be available for residents of the Pinecrest and Hammond Developmental Centers, or their alternates, who successfully complete the financial and medical certification eligibility process and are certified for the waiver. Alternate shall be defined as those residents of ICF-MR facilities who choose to apply for waiver participation, are determined eligible for the waiver, and vacate a bed in the ICF-MR facility which will be used for a resident being discharged from a public developmental center. The Pinecrest or Hammond Developmental Center resident must be given freedom of choice in the selection of a private ICF-MR facility placement in the area of the resident's choice in order to designate the resident being discharged from the ICF-MR facility as an alternate. The bed being vacated in the ICF-MR facility is reserved for placement of a public developmental center resident for 120 days.

3. Any slots vacated during the waiver year shall be available to residents leaving any publicly operated ICF-MR facility.

4. At minimum of 36 slots shall be available for the conversion of whole ICF-MR facilities to waiver services. In order to qualify, all residents of the ICF-MR facility must choose to participate in the waiver, must meet the financial and medical eligibility requirements for the waiver, and the ICF-MR facility must be closed and its licensure and certificate of need forfeited.

5. Funded slots, not addressed in this section, shall be available for allocation to the next applicants on the MR/DD Waiver waiting list, in order of application, who successfully complete the financial eligibility and medical certification process and are certified for the waiver.

Waiver slots shall not be reserved for use as emergency slots nor shall emergency slots be assigned.

The Bureau of Health Services Financing, Division of Home and Community-Based Waivers has the authority to monitor the utilization of waiver slots. Specially allocated slots may be reallocated to better meet the needs of Medicaid recipients with developmental disabilities.

David W. Hood
Secretary

9909#043

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

Medicaid—Gifts to Children with Life-Threatening
Conditions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the

Social Security Act. This rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends section I of the Medicaid Eligibility Manual governing countable income and resources by adopting the provisions of P.L. 105-306 which exclude from consideration as countable income and resources, any gifts made to, or for the benefit of, children who are under age 18 and have a life-threatening condition, if the gifts are from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 as exempt from taxation. This amendment is applicable to gifts made on or after October 28, 1996.

A. Income Determinations. Gifts are excluded from the income determination of Medicaid eligibility under the following circumstances:

1. in the case of an in-kind gift, it is not considered income if the gift is not converted to cash;
2. if an in-kind gift is converted to cash, the cash is counted as income in the month it is converted;
3. in the case of a cash gift, it is excluded as income only to the extent that the total amount excluded from the income under this provision does not exceed \$2,000 in any calendar year;
4. cash in excess of \$2,000 received in a calendar year is subject to regular income determination policy.

B. Resource Determination. Gifts will be excluded from the resource determination of Medicaid eligibility under the following circumstances:

1. in the case of an in-kind gift, it is not considered as income if the gift is not converted to cash;
2. if an in-kind gift is converted to cash, any cash remaining in the month following the month that it is converted is a resource;
3. in the case of a cash gift, it is considered as a resource only to the extent that the cash excluded does not exceed \$2,000 in any calendar year;
4. retained cash in excess of \$2,000 received in a calendar year is subject to regular resource determination policy.

C. A gift to a parent whose income and resources are subject to deeming is excluded (subject to the aforementioned limits) if the gift is for the benefit of a child under age 18 with a life-threatening condition.

David W. Hood
Secretary

9909#044

RULE

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

Surveillance and Utilization Review Systems (SURS)
(LAC 50:II.Chapter 41)

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

following rule as authorized by LA. 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.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 1. General /Program Integrity

Chapter 41. Surveillance and Utilization Review Systems (SURS)

Subchapter A. General Provisions

§4101. Foreword

A. The Medical Assistance Program is a four party arrangement: the taxpayer, the government, the beneficiaries and the providers. The Secretary of the Department of Health and Hospitals, through this regulation, recognizes:

1. the obligation to the taxpayers to assure the fiscal and programmatic integrity of the Medical Assistance Program. The Secretary has zero tolerance for fraudulent, willful, abusive or other ill practices perpetrated upon the Medical Assistance Program by providers, providers-in-fact and others, including beneficiaries. Such practices will be vigorously pursued to the fullest extent allowed under the applicable laws and regulations;

2. the responsibility to assure that actions brought in pursuit of providers, providers-in-fact and others, including beneficiaries, under this regulation are not frivolous, vexatious or brought primarily for the purpose of harassment. Providers, providers-in-fact and others, including beneficiaries, must recognize that they have an obligation to obey and follow all applicable laws, regulations, policies, criteria and procedures; and

3. that when determining whether a fraudulent pattern of incorrect submissions exists under this regulation, the department has an obligation to demonstrate that the pattern of incorrect submissions are material, as defined under this regulation, prior to imposing a fine or other monetary sanction which is greater than the amount of the identified overpayment resulting from the pattern of incorrect submissions. In the case of an action brought for a pattern of incorrect submissions, providers and providers-in-fact must recognize that if they frivolously or unreasonably deny the existence or amount of an overpayment resulting from a pattern of incorrect submissions, the department may impose judicial interest on any outstanding recovery or recoupment or reasonable cost and expenses incurred as the direct result of the investigation or review, including but not limited to the time and expenses incurred by departmental employees or agents and the fiscal intermediary's employees or agents.

B. The Department of Health and Hospitals, Bureau of Health Services Financing (BHSF) has adopted this regulation in order to:

1. establish procedures for conducting surveillance and utilization review of providers and others;
2. define conduct in which providers and other cannot be engaged;
3. establish grounds for sanctioning providers and others who engage in prohibited conduct; and
4. establish the procedures to be used when sanctioning or otherwise restricting a provider and others under the Louisiana Medicaid Program.

C. The purpose of this regulation is to assure the quality, quantity, and need for such goods, services, and supplies and to provide for the sanctioning of those who do not provide adequate goods, services, or supplies or request payment or reimbursement for goods, services, or supplies which do not comply with the requirements of federal laws, federal regulations, state laws, state regulations or the rules, procedures, criteria or policies governing providers and others under the Louisiana Medicaid Program.

D. A further purpose of this regulation is to assure the integrity of the Louisiana Medicaid Program by providing methods and procedures to:

1. prevent, detect, investigate, review, hear, refer, and report fraudulent or abusive practices, errors, over-utilization, or under-utilization by providers and others;
2. impose any and all administrative sanctions and remedial measures authorized by law or regulation, which are appropriate under the circumstances;
3. pursue recoupment or recovery arising out of prohibited conduct or overpayments;
4. allow for informal resolution of disputes between the Louisiana Medicaid Program and providers and others;
5. establish rules, policies, criteria and procedures; and
6. other functions as may be deemed appropriate.

E. In order to further the purpose of this regulation the Secretary may establish peer review groups for the purpose of advising the Secretary on any matters covered in this regulation.

F. Nothing in this regulation is intended, nor shall it be construed, to grant any person any right to participate in the Louisiana Medicaid Program which is not specifically granted by federal law or the laws of this state or to confer upon any person's rights or privileges which are not contained within this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1630 (September 1999).

§4103. Definitions

A. The following specific terms shall apply to all those participating in the Louisiana Medicaid Program, either directly or indirectly, and shall be applied when making any and all determinations related to this and other departmental regulations, rules, policies, criteria, and procedures applicable to the Louisiana Medicaid program and its programs.

Affiliates—any person who has a direct or indirect relationship or association with a provider such that the provider is directly or indirectly influenced or controlled by the affiliate or has the power to do so. Any person with a direct or indirect ownership interest in a provider is presumed to be an affiliate of that provider. Any person who shares in the proceeds or has the right to share in the proceeds of a provider is presumed to be an affiliate of that provider unless that person is a spouse or a minor child of the provider and has no other affiliation with the provider other than that of being a family member of the provider.

Agent—a person who is employed by or has a contractual relationship with a provider or who acts on behalf of the provider.

Agreement to Repay—a formal written and enforceable arrangement to repay an identified overpayment, interest, monetary penalties or costs and expenses.

Billing Agent—any agent who performs any or all of the provider's billing functions. Billing agents are presumed to be an agent of the provider.

Billing or Bill—submitting, or attempting to submit, a claim for goods, supplies, or services.

Claim—any request or demand, including any and all documents or information required by federal or state law or by rule made against Medical Assistance Program funds for payment. A claim may be based on costs or projected costs and includes any entry or omission in a cost report or similar document, book of account, or any other document which supports, or attempts to support, the claim. In the case of a claim based on a cost report, any entry or omission in a cost report, book of account or other documents used or intended to be used to support a cost report shall constitute a claim. Each claim may be treated as a separate claim, or several claims may be combined to form one claim.

Claims or Payment Review—the process of reviewing documents or other information or sources required or related to the payment or reimbursement to a provider by the department, BHSF, SURS or the fiscal intermediary in order to determine if the bill or claim should be or should have been paid or reimbursed. Payment and claim reviews are the same process.

Contractor—any person with whom the provider has a contract to perform a service or function on behalf of the provider. A contractor is presumed to be an agent of the provider.

Corrective Action Plan—a written plan, short of an administrative sanction, agreed to by a provider, provider-in-fact or other person with the department, BHSF or, Program Integrity designed to remedy any inefficient, aberrant or prohibited practices by a provider, provider-in-fact or other person. A corrective action plan is not a sanction.

Department—the Louisiana Department of Health and Hospitals.

Deputy Secretary—the Deputy Secretary of the department or authorized designee.

Director of Program Integrity or Assistant Director of Program Integrity—the individual whom the Secretary has designated as the director, program manager or section chief of the Program Integrity Division or the designated assistant to the Director of Program Integrity Division respectively or their authorized designee.

Director of the Bureau of Health Finance Services—the director of BHSF or authorized designee.

Exclusion from Participation—a sanction that terminates a provider, provider-in-fact or other person from participation in the Louisiana Medicaid program, or one or more of its programs and cancels the provider's provider agreement.

a. A provider who is excluded may, at the end of the period of exclusion, reapply for enrollment.

b. A provider, provider-in-fact or other person who is excluded may not be a provider or provider-in-fact, agent of a provider, or affiliate of a provider or have a direct or indirect ownership in any provider during their period of exclusion.

False or Fraudulent—a claim which the provider or his billing agent submits knowing the claim to be false, fictitious, untrue, or misleading in regard to any material information. "False or fraudulent claim" shall include a claim which is part of a pattern of incorrect submissions in regard to material information or which is otherwise part of a pattern in violation of applicable federal or state law or rule.

Federal Regulations—the provisions contained in the *Code of Federal Regulations* (CFR) or the *Federal Register* (FR).

Finalized Sanction or Final Administrative Adjudication or Order—a final order imposed pursuant to an administrative adjudication that has been signed by the Secretary or the Secretary's authorized designee.

Fiscal Agent or Fiscal Intermediary—an organization or legal entity whom the department contracts with to provide for the processing, review of or payment of provider bills and claims.

Good, Service or Supply—any good, item, device, supply, or service for which a claim is made, or is attempted to be made, in whole or in part.

Health Care Provider—any person furnishing or claiming to furnish a good, service, or supply under the Medical Assistance Programs as defined in R.S. 46:437.3 and any other person defined as a health care provider by federal or state law or by rule. For the purpose of this regulation, health care provider and provider are interchangeable terms.

Identified Overpayment—the amount of overpayment made to or requested by a provider that has been identified in a final administrative adjudication or order.

Indirect Ownership—an ownership interest in an entity that has an ownership interest in a provider. This term includes an ownership interest in any entity that has an indirect ownership interest in a provider.

Ineligible Recipient—an individual who is not eligible to receive health care through the medical assistance programs.

Informal Hearing—an informal conference between the provider, provider-in-fact or other persons and the Director of Program Integrity or the SURS manager related to a notice of corrective action, notice of withholding of payments or notice of sanction.

Investigator or Analyst—any person authorized to conduct investigations on behalf of the department, BHSF, Program Integrity Division, SURS or the fiscal intermediary, either through employment or contract for the purposes of payment or programmatic review.

Investigatory Process—the examination of the provider, provider-in-fact, agent-of-the-provider, or affiliate, and any other person or entity, and any and all records held by or pertaining to them pursuant to a written request from BHSF. No adjudication is made during this process.

Knew or Should Have Known—the person knew or should have known that the activity engaged in or not engaged in was prohibited conduct under this regulation or federal or

state laws and regulations. The standard to be used in determining knew or should have known is that of a reasonable person engaged in the activity or practice related to the Medical Assistance Program at issue.

Knowing or Knowingly—the person has actual knowledge of the information, or acts in deliberate ignorance or reckless disregard of the truth or falsity of the information. The standard to be used in determining knowing or knowingly is that of a reasonable person engaged in the activity or practice related to the Medical Assistance Program at issue.

Law—the constitutions, statutory or code provisions of the federal government and the government of the state of Louisiana.

Louisiana Administrative Code (LAC)—the *Louisiana Administrative Code* or the *Louisiana Register*.

Managing Employee—a person who exercises operational or managerial control over, or who directly or indirectly conducts, the day-to-day operations of a provider. Managing employee shall include, but is not limited to, a chief executive officer, president, general manager, business manager, administrator, or director.

Medical Assistance Program or Medicaid—the Medical Assistance Program (Title XIX of the Social Security Act), commonly referred to as "Medicaid", and other programs operated by and funded in the department which provide payment to providers.

Misrepresentation—the knowing failure to truthfully or fully disclose any and all information required, or the concealment of any and all information required on a claim or a provider agreement or the making of a false or misleading statement to the department relative to the Medical Assistance Program.

Notice—actual or constructive notice.

Notice of an Action—a written notification of an action taken or to be taken by the department, BHSF or SURS. A notice must be signed by or on behalf of the Secretary, Director of BHSF, or Director of Program Integrity.

Ownership Interest—the possession, directly or indirectly, of equity in the capital or the stock, or right to share in the profits of a provider.

Payment or Reimbursement—the payment or reimbursement to a provider from Medical Assistance Programs' funds pursuant to a claim, or the attempt to seek payment for a claim.

Person—any natural person, company, corporation, partnership, firm, association, group, or other legal entity or as otherwise provided for by law.

Policies, Criteria or Procedure—those things established or provided for through departmental manuals, provider updates, remittance advice or bulletins issued by the Medical Assistance Program or on behalf of the Medical Assistance Program.

Program—any program authorized under the Medical Assistance Program.

Program Integrity Division (PID)—the Program Integrity Unit under BHSF within the department, its predecessor and successor.

Provider Agreement—the document(s) signed by or on behalf of the provider and those things established or provided for in R.S. 46:437.11 - 437.14 or by rule, which

enrolls the provider in the Medical Assistance Program or one or more of its programs and grants to the provider a provider number and the privilege to participate in Medicaid of Louisiana or one or more of its programs.

Provider Enrollment—the process through which a person becomes enrolled in the Medical Assistance Program or one of its programs for the purpose of providing goods, services, or supplies to one or more Medicaid recipients or submissions of claims.

Provider-in-Fact—person who directly or indirectly participates in management decisions, has an ownership interest in the provider, or other persons defined as a provider-in-fact by federal or state law or by rule. A person is presumed to be a provider-in-fact if the person is:

- a. a partner;
- b. a board of Directors member;
- c. an office holder; or
- d. a person who performs a significant management or administrative function for the provider, including any person or entity who has a contract with the provider to perform one or more significant management or administrative functions on behalf of the provider;
- e. a person who signs the provider enrollment paper work on behalf of the provider;
- f. a managing employee;
- g. an agent of the provider, or a billing agent may

also be a provider-in-fact for the purpose of determining a violation and the imposing of a sanction under this regulation.

Provider Number—a provider's billing or claim reimbursement number issued by the department through BHSF under the Medical Assistance Program.

Recipient—an individual who is eligible to receive health care through the medical assistance programs.

Recoupment—recovery through the reduction, in whole or in part, of payments or reimbursements to a provider.

Recovery—the recovery of overpayments, damages, fines, penalties, costs, expenses, restitution, attorney's fees, or interest or settlement amounts.

Referring Provider—any provider, provider-in-fact or anyone operating on behalf of the provider who refers a recipient to another person for the purpose of providing goods, services, or supplies.

Rule or Regulation—any rule or regulation promulgated by the department in accordance with the Administrative Procedure Act and any federal rule or regulation promulgated by the federal government in accordance with federal law.

Secretary—the secretary of the Department of Health and Hospitals, or his authorized designee.

Statistical Sample—a statistical formula and sampling technique used to produce a statistical extrapolation of the amount of overpayment made to a provider or a volume of the violations.

SURS Manager—the individual designated by the Secretary as the manager of SURS or authorized designee.

Surveillance and Utilization Review Section (SURS)—the section within BHSF assigned to identify providers for review, conduct payment reviews, and sanction providers

resulting from payments to and claims from providers, and any other functions or duties assigned by the Secretary.

Suspension from Participation—occurs between the issuing of the notice of the results of the informal hearing and the issuing of the final administrative adjudication or order.

Terms of the Provider Agreement—the terms contained in the provider agreement or related documents and established or provided for in R.S. 46:437.11 - 437.14 or established by law or rule.

Undersecretary—the Undersecretary of the department or authorized designee.

Violations—any practice or activity by a provider, provider-in-fact, agent-of-the-provider, affiliate, or other persons which is prohibited by law or this rule.

Withhold Payment—to reduce or adjust the amount, in whole or in part, to be paid to a provider for pending or future claims during the time of a criminal, civil, or departmental investigation or proceeding or claims review of the provider.

Working Days—Monday through Friday, except for legal holidays and other situations when the department is closed.

B. General Terms. Definitions contained in applicable federal laws and regulations shall also apply to this and all department regulations. In the case of a conflict between federal definitions and departmental definitions, the department's definition shall apply unless the federal definition, as a matter of law, supersedes a departmental definition. Definitions contained in applicable state laws shall also apply to this and all departmental definitions. In the case of a conflict between a state statutory definition and a departmental definition, the departmental definition shall apply unless the state statutory definition, as a matter of state law, supersedes the departmental definition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1631 (September 1999).

§4105. Material

A. The Secretary of the Department of Health and Hospitals establishes the following definitions of Material:

1. For the purpose of the R.S. 48:438.3 as required under R.S. 48:438.8D, in determining whether a pattern of incorrect submissions exists in regards to an alleged false or fraudulent claim the incorrect submissions must be five (5) percent or more of the total claims submitted or to be submitted by the provider during the period covered in the civil action filed or to be filed. The total amount of claims for the purpose of this provision is the total number of claims submitted or to be submitted by the provider during the period of time and type or kind of claim which is the subject of the civil action under R.S. 48:438.3.

2. For the purpose of this regulation, in determining whether a pattern of incorrect submissions exist in regards to an alleged fraudulent or willful violation the incorrect submissions must be five (5) percent or more of the total claims being subjected to claims review under the provisions of this regulation. The total amount of claims for the purpose of this provision is the total number of claims submitted or

to be submitted by the provider during the period of time and type or kind of claim which is the subject of claims review.

3. Statistically valid sampling techniques may be used by either party to prove or disprove whether the pattern was material.

B. This provision is enacted under the authority provided in R.S. 46:438.8(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1633 (September 1999).

§4107. Statistical Sampling

A. Statistical Sampling techniques may be used by any party to the proceedings.

B. A valid sampling technique may be used to produce an extrapolation of the amount of overpayment made to a provider or the volume or number of violations committed by a provider or to disprove same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1634 (September 1999).

Subchapter B. Claims Review Prepayment or Post-Payment Review

§4109. Departmental and Provider Obligations

A. The department, through the Secretary, has an obligation, imposed by federal and state laws and regulations, to:

1. review bills and claims submitted by providers before payment is made or after;

a. Payments made by the Louisiana Medicaid Program are subject to review by the Department of Health and Hospitals, Bureau of Health Services Financing, Program Integrity Division or the fiscal intermediary at anytime to ensure the quality, quantity, and need for goods, services, or supplies provided to or for a recipient by a provider, and to protect the fiscal and programmatic integrity of the Louisiana Medicaid Program and its programs.

b. It is the function of the Program Integrity Division (PID) and the Surveillance and Utilization Review Section (SURS) to provide for and administer the utilization review process within the department.

2. assure that claims review brought under this regulation are not frivolous, vexatious or brought primarily for the purpose of harassment;

3. recognize that when determining whether a fraudulent pattern of incorrect submissions exists under this regulation, the department has an obligation to demonstrate that the pattern of incorrect submissions are material as defined under this regulation prior to imposing a fine or other monetary sanction which is greater than the amount of the identified or projected overpayment resulting from the pattern of incorrect submissions;

4. recognize the need to obtain advice from applicable professions and individuals concerning the standards to be applied under this regulation. At the discretion of the Secretary may seek advice from peer review groups which the Secretary has established for the purpose of seeking such advice;

5. recognize the right of each individual to exercise all rights and privileges afforded to that individual under the law including, but not limited to the right to counsel as provided under the applicable laws.

B. Providers have no right to receive payment for bills or claims submitted to BHSF or its fiscal intermediary. Providers only have a right to receive payment for valid claims. Payment of a bill or claim does not constitute acceptance by the department or its fiscal intermediary that the bill or claim is a valid claim. The provider is responsible for maintaining all records necessary to demonstrate that a bill or claim is in fact a valid claim. It is the provider's obligation to demonstrate that the bill or claim submitted was for goods, services, or supplies:

1. provided to a recipient who was entitled to receive the goods, services, or supplies;

2. were medically necessary or otherwise properly authorized;

3. were provided by or authorized by an individual with the necessary qualifications to make that determination; and

4. were actually provided to the appropriate recipient in the appropriate quality and quantity by an individual qualified to provide the good, service or supply; or

5. in the case of a claim based on a cost report, that each entry is complete, accurate and supported by the necessary documentation.

C. The provider must maintain and make available for inspection all documents required to demonstrate that a bill or claim is a valid claim. Failure on the part of the provider to adequately document means that the goods, services, or supplies will not be paid for or reimbursed by the Louisiana Medicaid program.

D. A person has no property interest in any payments or reimbursements from Medicaid which are determined to be an overpayment or are subject to payment review.

E. Providers, providers-in-fact and others, including beneficiaries must recognize that they have an obligation to obey and follow all applicable laws, regulations, policies, criteria and procedures. In the case of an action brought for a pattern of incorrect submissions, providers and providers in fact recognize that if they frivolously or unreasonably deny the existence or amount of an overpayment resulting from a pattern of incorrect submissions the department may impose judicial interest on any outstanding recovery or recoupment, or reasonable cost and expenses incurred as the direct result of the investigation or review including, but not limited to, the time and expenses incurred by departmental employees or agents and the fiscal intermediary's employees or agents.

F. In determining the amount to be paid or reimbursed to a provider any and all overpayments, recoupment or recovery must be taken into consideration prior to determining the actual amount owed to the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1634 (September 1999).

§4111. Claims Review

BHSF establishes the following procedures for review of bills and claims submitted to it or its fiscal intermediary:

A. Prepayment Review

1. Upon concurrence of the Director of BHSF and the Director of Program Integrity, bills or claims submitted by a provider may be reviewed by the SURS or the SURS unit of the Fiscal Intermediary for fifteen (15) days from date the payment or reimbursement is ordinarily sent to a provider by BHSF or its fiscal intermediary prior to the issuing of or denial of payment or reimbursement.

2. If, during the prepayment review process, it is determined that the provider may be overpaid, BHSF or its fiscal intermediary must conduct an investigation to determine the reasons for and estimates of the amount of the potential overpayments.

a. If it is determined that evidence exists which would lead the Director of BHSF and the Director of Program Integrity to believe that the provider, provider-in-fact, agent of the provider, or affiliate of the provider has engaged in fraudulent, false, or fictitious billing practices or willful misrepresentation, current and future payments shall be withheld.

b. If it is determined that evidence exists which would lead the Director of BHSF and the Director of Program Integrity to believe that overpayments may have occurred through reasons other than fraudulent, false or fictitious billing or willful misrepresentation, current and future payments may be withheld.

3. Prepayment review is not a sanction and cannot be appealed nor is it subject to an informal hearing. If prepayment review results in withholding of payments, the provider or provider-in-fact will be notified within five (5) working days of the determination to withhold payments. In the case of an ongoing criminal or outside governmental investigation, information related to the investigation shall not be disclosed to the provider, provider-in-fact or other person unless release of such information is otherwise authorized or required under law. The issuing of a notice of withholding triggers the right to an informal hearing. Denials or refusals to pay individual bills that are the result of the edit and audit system are not withholdings of payments.

4. Prepayment review is conducted at the absolute discretion of the Director of BHSF and the Director of Program Integrity.

B. Post-payment Review

1. Providers have a right to receive payment only for those bills that are valid claims. A person has no property interest in any payments or reimbursements from Medicaid, which are determined to be an overpayment or are subject to payment review. After payment to a provider, BHSF or its fiscal intermediary may review any or all payments made to a provider for the purpose of determining if the amounts paid were for valid claims.

2. If, during the post-payment review process, it is determined that the provider may have been overpaid, BHSF or its fiscal intermediary must conduct an investigation to determine the reasons for and estimated amounts of the alleged overpayments.

a. If it is determined that evidence exists that would lead the Director of BHSF and the Director of Program Integrity to believe that the provider, provider-in-fact, agent of the provider, or affiliate of the provider may have engaged in fraudulent, false, or fictitious billing practices or willful

misrepresentation, current and future payments shall be withheld.

b. If it is determined that evidence exists that overpayments may have occurred through reasons other than fraud or willful misrepresentation, current and future payments may be withheld.

3. Post-payment review is not a sanction and is not appealable nor subject to an informal hearing. If post-payment review results in withholding of payments, the provider or provider-in-fact will be notified within five working days of the determination to withhold payments. In the case of an ongoing criminal or outside government investigation, information related to the investigation shall not be disclosed to the provider, provider-in-fact or other person. The issuing of a notice of withholding triggers the right to an informal hearing. Denials or refusals to pay individual bills that are the result of the edit and audit system are not withholdings of payments.

4. Post-payment review is conducted is at the absolute discretion of the Director of BHSF and Director of Program Integrity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1634 (September 1999).

§4113. Claims Review Scope and Extent

A. Prepayment and post-payment review may be limited to specific items or procedures or include all billings or claims by a provider.

B. The length of time a provider is on post-payment review shall be at the sole discretion of the Director of BHSF and the Director of Program Integrity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1635 (September 1999).

Subchapter C. Investigations

§4115. Formal or Informal Investigations

Prepayment and post-payment review may be conducted through either a formal or informal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:153 and 46:442.1, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1635 (September 1999).

§4117. Informal Investigatory Process

An informal investigation may be initiated without cause and requires no justification. The provider and provider-in-fact of the provider have an affirmative duty to cooperate fully with the investigation. The provider and provider-in-fact, if they have the ability to do so, shall make all records requested as part of the investigation available for review or copying. The provider and provider-in-fact, if they have the ability to do so, shall make available all agents and affiliates of the provider for the purpose of being interviewed during the course of the informal investigation at the provider's ordinary place of business or any other mutually agreeable location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:153 and 46:442.1, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1635 (September 1999).

§4119. Formal Investigatory Process

A. The formal investigatory process must be initiated in writing by the Director of BHSF and Director of Program Integrity. The written notice of investigation shall be directed to a provider, specifically naming an investigating officer and be given to the provider, provider-in-fact or their agent. The investigating officer shall provide written notice of the investigation to the provider or a provider-in-fact of the provider at the time of the on-site investigation.

B. The written notice need not contain any reasons or justifications for the investigation, only that such an investigation has been authorized and the individual in charge of the investigation.

C. The investigating officer and the agents of the investigating officer shall have the authority to review and copy records of the provider including, but not limited to, any financial or other business records of the provider or any or all records related to the recipients, and take statements from the provider, provider-in-fact, agents of the provider and any affiliates of the provider, as well as any recipients who have received goods, services, or supplies from the provider or whom the provider has claimed to have provided goods, services, or supplies.

D. The provider and provider-in-fact of the provider have an affirmative duty to cooperate fully with the investigating officer and agents of the investigating officer, including full and truthful disclosure of all information requested and questions asked. The provider and provider-in-fact, if they have the ability to do so, shall make all records requested by the investigating officer available for review and copying. The provider and provider-in-fact, if they have the ability to do so, shall make available all agents and affiliates of the provider for the purpose of being interviewed by the investigating officer or agent of the investigating officer at the provider's ordinary place of business or any other mutually agreeable location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:153 and 46:442.1, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1636 (September 1999).

§4121. Investigatory Discussion

A. During the investigatory process the provider, provider-in-fact, agent of the provider, or affiliate of the provider shall be notified in writing of the time and place of an investigatory discussion. The notice shall contain the names of the individuals who are requested to be present at the discussion and any documents that the provider, provider-in-fact, agent of the provider or affiliate of the provider must bring to the discussion.

B. The provider and provider-in-fact, if they have the ability to do so, shall be responsible for assuring the attendance of individuals who are currently employed by, contracted by, or affiliated with the provider.

C. This notice may contain a request to bring records to the investigatory discussion. If such a request for records is

made, the provider and provider-in-fact are responsible for having those records produced at the investigatory discussion. The provider or provider-in-fact shall be given at least five working days to comply with the request.

D. At the investigatory discussion, the authorized investigating officer can ask any of the individuals present at the discussion questions related to the provider's billing practices or other aspects directly or indirectly related to the providing of goods, supplies, and services to Medicaid recipients or nonrecipients, or any other aspect related to the provider's participation in the Louisiana Medicaid program. Any provider, provider-in-fact, agent of the provider, affiliate of the provider, or recipient brought to an investigatory discussion has an affirmative duty to fully and truthfully answer any questions asked and provide any and all information requested.

E. Any person present at an Investigatory Discussion may be represented by counsel. The exercising of a constitutional or statutory right during an Investigatory Discussion shall not be construed as a failure to cooperate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1636 (September 1999).

§4123. Written Investigatory Reports

The investigating officer or analyst, at the discretion of the Director of Program Integrity or the SURS manager, may draft a written investigative report concerning the results of the informal or formal investigation. The Director of BHSF and Director of Program Integrity at their discretion, may release the report to outside law enforcement agencies, authorized federal representatives, the legislative auditor or any individuals within the department whom the Secretary has authorized to review such reports. No other entities or persons shall have a right to review the contents of an investigative report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1636 (September 1999).

Subchapter D. Conduct

§4125. Introduction

This Subchapter pertains to the kinds of conduct which are violations, the scope of a violation, types of violations and elements of violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1636 (September 1999).

§4127. Prohibited Conduct

Violations are kinds of conduct that are prohibited and constitute a violation under this regulation. No provider, provider-in-fact, agent of the provider, billing agent, affiliate of a provider or other person may engage in any conduct prohibited by this regulation. If they do, the provider or provider-in-fact, agent of the provider, billing agent, affiliate of the provider or other person may be subject to corrective

action, withholding of payment, recoupment, recovery, suspension, exclusion, posting bond or other security, monetary penalties or any other sanction listed in this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1636 (September 1999).

§4129. Violations

A. The following is a list of violations.

1. Failure to comply with any or all federal or state laws applicable to the Medical Assistance Program or a program of the Medical Assistance Program in which the provider, provider-in-fact, agent of the provider, billing agent, affiliate or other person is participating is a violation of this provision.

a. Neither the Secretary, Director of BHSF, or any other person can waive or alter a requirement or condition established by statute.

b. Requirements or conditions imposed by a statute can only be waived, modified or changed through legislation.

c. Providers and providers-in-fact are required and have an affirmative duty to fully inform all their agents and affiliates, who are performing any function connected to the provider's activities related to the Medicaid program, of the applicable laws.

d. Providers, providers-in-fact, agents of providers, billing agents, and affiliates of providers are presumed to know the law. Ignorance of the applicable laws is not a defense to any administrative action.

2. Failure to comply with any or all federal or state regulations or rule applicable to the Medical Assistance Program or a program of the Medical Assistance Program in which the provider, provider-in-fact, agent of the provider, billing agent, or affiliate of the provider is participating is a violation of this provision.

a. Neither the Secretary, Director BHSF or any other person can waive or alter a requirement or condition established by regulation.

b. Requirements or conditions imposed by a regulation can only be waived, modified, or changed through formal promulgation of a new or amended regulation, unless authority to do so is specifically provided for in the regulation.

c. Providers and providers-in-fact are required and have an affirmative duty to fully inform all their agents and affiliates, who are performing any function connected to the provider's activities related to the Medicaid program, of the applicable regulations.

d. Providers, providers-in-fact, agents of providers, and affiliates of the provider are presumed to know the regulations and rules applicable to participation in the Medical Assistance Program or one or more of its programs in which they are participating. Ignorance of the applicable regulations is not a defense to any administrative action.

3. Failure to comply with any or all policies, criteria or procedures of the Medical Assistance Program or the applicable program of the Medical Assistance Program in which the provider, provider-in-fact, agent of the provider,

billing agent or affiliate of the provider is participating is a violation of this provision.

a. Policies, criteria and procedures are contained in program manuals, training manuals, remittance advice, provider updates or bulletins issued by or on behalf of the Secretary or Director of BHSF.

b. Policies, criteria and procedures can be waived, amended, clarified, repealed or otherwise changed, either generally or in specific cases, only by the Secretary, Undersecretary, Deputy Secretary or the Director of BHSF.

c. Such waivers, amendments, clarifications, repeals, or other changes must be in writing and state that it is a waiver, amendment, clarification, or change in order to be effective.

d. Notice of the policies, criteria and procedures of the Medical Assistance Program and its programs are provided to providers upon enrollment and receipt of a provider number. It is the duty of the provider at the time of enrollment or re-enrollment to obtain the policies, criteria, and procedures, which are in effect at the time of enrollment or re-enrollment.

e. Waivers, amendments, clarifications, repeals, or other changes to the policies, criteria, or procedures must be in writing and are generally contained in a new or reissued program manual, new manual pages, remittance advice, provider updates, or specifically designated bulletins from the Secretary, Undersecretary, Deputy Secretary or Director of BHSF.

f. Waivers, amendments, clarifications, repeals or other changes are mailed to the provider at the address given to BHSF or the fiscal intermediary by the provider for the express purpose of receiving such notifications.

i. It is the duty of the provider to provide the above address and make arrangements to receive these mailings through that address. This includes the duty to inform BHSF or the fiscal intermediary of any changes in the above address prior to actual change of address.

ii. Mailing of a manual, new manual pages, provider update, bulletins, or remittance advice to the provider's latest listed address creates a reputable presumption that the provider received it. The burden of proving lack of notice of policy, criteria, or procedure or waivers, amendments, clarifications, repeals, or other changes in same is on the party asserting it.

iii. Providers and providers-in-fact are presumed to know the applicable policies, criteria and procedures and any or all waivers, amendments, clarifications, repeals, or other changes to the applicable rules, policies, criteria and procedures which have been mailed to the address provided by the provider for the purpose of receiving notice of same.

iv. Ignorance of an applicable policy, criteria, or procedure or any and all waivers, amendments, clarifications, repeals, or other changes to applicable policies, criteria and procedures is not a defense to an administrative action brought against a provider or provider-in-fact. Lack of notice of a policy, criteria, or procedure or waiver, amendment, clarification, repeal, or other change of the same is a defense to a violation based on abusive, fraudulent, false, or fictitious billing practice or willful practices or the imposition of any sanction except issuing a warning, education and training, prior authorization, posting bond or other security, recovery of overpayment or

recoupment of overpayment. Lack of notice of a policy, criteria, or procedure, or waivers, amendments, clarifications, repeals, or other changes to applicable policies, criteria, or procedures is not a defense to a violation, which is aberrant.

g. Providers and providers-in-fact are required and have an affirmative duty to fully inform all their agents and affiliates, who are performing any function connected to the provider's activities related to the Medicaid program, of the applicable policies, criteria, and procedures and any waivers, amendments, clarifications, repeals, or other changes in applicable policies, criteria, or procedures.

4. Failure to comply with one or more of the terms or conditions contained in the provider's provider agreement or any and all forms signed by or on behalf of the provider setting forth the terms and conditions applicable to participation in the Medical Assistance Program or one or more of its programs is a violation of this provision.

a. The terms or conditions of a provider agreement or those contained in the signed forms, unless specifically provided for by law or regulation or rule, can only be waived, changed or amended through mutual written agreement between the provider and the Secretary, Undersecretary, Deputy Secretary or the Director of BHSF. Those conditions or terms that are established by law or regulation or rule may not be waived, altered, amended, or otherwise changed except through legislation or rule making.

b. A waiver, change, or amendment to a term or condition of a provider agreement and any signed forms must be reduced to writing and be signed by the provider and the Secretary, Undersecretary, Deputy Secretary or the Director of BHSF in order to be effective.

c. Such mutual agreements cannot waive, change or amend the law, regulations, rules, policies, criteria or procedures.

d. The provider and provider-in-fact are presumed to know the terms and conditions in their provider agreement and any signed forms related thereto and any changes to their provider agreement or the signed forms related thereto.

e. The provider and provider-in-fact are required and have an affirmative duty to fully inform all their agents or affiliates, who are performing any function connected to the provider's activities related to the Medicaid program, of the terms and conditions contained in the provider agreement and the signed forms related thereto and any change made to them. Ignorance of the terms and conditions in the provider agreement or signed forms or any changes to them is not a defense.

Note: The Department, BHSF or the fiscal intermediary may, from time to time, provide training sessions and consultation on the law, regulations, rules, policies, criteria, and procedures applicable to the Medical Assistance Program and its programs. These training sessions and consultations are intended to assist the provider, provider-in-fact, agents of providers, billing agents, and affiliates. Information presented during these training sessions and consultations do not necessarily constitute the official stands of the department and BHSF in regard to the law, regulations and rules, policies, or procedures unless reduced to writing in compliance with this Subpart.

5. Making a false, fictitious, untrue, misleading statement or concealment of information during the application process or not fully disclosing all information

required or requested on the application forms for the Medicaid Assistance Program, provider number, enrollment paperwork, or any other forms required by the department, BHSF or its fiscal intermediary that is related to enrollment in the Medical Assistance Program or one of its programs or failing to disclose any other information which is required under this regulation, or other departmental regulations, rules, policies, criteria, or procedures is a violation of this provision. This includes the information required under R.S. 46:437.11 - 437.14. Failure to pay any fees or post security related to enrollment is also a violation of this Section.

a. The provider and provider-in-fact have an affirmative duty to inform BHSF in writing through provider enrollment of any and all changes in ownership, control, or managing employee of a provider and fully and completely disclose any and all administrative sanctions, withholding of payments, criminal charges, or convictions, guilty pleas, or no contest pleas, civil judgments, civil fines, or penalties imposed on the provider, provider-in-fact, agent of the provider, billing agent, or affiliates of the provider which are related to Medicare or Medicaid in this or any other state or territory of the United States.

i. Failure to do so within ten (10) working days of when the provider or provider-in-fact knew or should have known of such a change or information is a violation of this provision.

ii. If it is determined that a failure to disclose was willful or fraudulent, the provider's enrollment can be voided back to the date of the willful misrepresentation or concealment or fraudulent disclosure.

6. Not being properly licensed, certified, or otherwise qualified to provide for the particular goods, services, or supplies provided or billed for or such license, certificate, or other qualification required or necessary in order to provide a good, service, or supply has not been renewed or has been revoked, suspended or otherwise terminated is a violation of this provision. This includes, but is not limited to, professional licenses, business licenses, paraprofessional certificates, and licenses or other similar licenses or certificates required by federal, state, or local governmental agencies, as well as, professional or paraprofessional organizations or governing bodies which are required by the Medical Assistance Program. Failure to pay required fees related to licensure or certification is also a violation of this provision.

7. Having engaged in conduct or performing an act in violation of official sanction which has been applied by a licensing authority, professional peer group, or peer review board or organization, or continuing such conduct following notification by the licensing or reviewing body that said conduct should cease is a violation of this provision.

8. Having been excluded or suspended from participation in Medicare is a violation of this provision. It is also a violation of this provision for a provider to employ, contract with, or otherwise affiliate with any person who has been excluded or suspended from Medicare during the period of exclusion or suspension.

a. The provider and provider-in-fact after they knew or should have known of same have an affirmative duty to:

i. inform BHSF in writing of any such exclusions or suspensions on the part of the provider, provider-in-fact, their agents or their affiliates;

ii. not hire, contract with or affiliate with any person or entity who has been excluded or suspended from Medicare; and

iii. terminate any and all ownership, employment and contractual relationships with any person or entity that has been excluded or suspended from Medicare.

b. Failure to do so on the part of the provider or provider-in-fact within ten (10) working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact, their agents, or affiliates is a violation of Paragraph 5 of this Subsection.

c. If the terms of the exclusion or suspension have been completed, no violation of this provision has occurred.

9. Having been excluded, suspended, or otherwise terminated from participation in Medicaid or other publicly funded health care or insurance programs of this state or any other state or territory of the United States is a violation of this provision. It is also a violation of this Section for a provider to employ, contract with, or otherwise affiliate with any person who has been excluded, suspended or otherwise terminated from participation in Medicaid or other publicly funded health care or health insurance programs of this state or another state or territory of the United States. It is also a violation of this provision for a provider to employ, contract with, or otherwise affiliate with any person who has been excluded from Medicaid or other publicly funded health care or health insurance programs of this state or any other state or territory of the United States during the period of exclusion or suspension.

a. The provider and provider-in-fact after they knew or should have known have an affirmative duty to:

i. inform BHSF in writing of any such exclusions or suspensions on the part of the provider, provider-in-fact, their agents or their affiliates;

ii. not hire, contract with, or affiliate with any person or entity who has been excluded or suspended from any Medicaid or other publicly funded health care or health insurance programs; and

iii. terminate any and all ownership, employment and contractual relationships with any person or entity that has been excluded or suspended from any Medicaid or other publicly funded health care or health insurance programs.

b. Failure to do so on the part of the provider or provider-in-fact within ten (10) working days of when the provider or provider-in-fact knew or should have known of any violation of this provisions by the provider, provider-in-fact, their agents or affiliates is a violation of Paragraph 5 of this Subsection.

c. If the terms of the exclusion or suspension have been completed, no violation of this provision has occurred.

10. Having been convicted of, pled guilty, or pled no contest to a crime, including attempts or conspiracy to commit a crime, in federal court, any state court, or court in any United States territory related to providing goods, services, or supplies or billing for goods, services, or supplies under Medicare, Medicaid, or any other program involving the expenditure of public funds is a violation of this provision. It is also a violation for a provider to employ, contract with, or otherwise affiliate with any person who has been convicted of, pled guilty, or pled no contest to a crime, including attempts to or conspiracy to commit a crime, in

federal court, any state court, or court in any United States territory related to providing goods, services, or supplies or billing for goods, services, or supplies under Medicare, Medicaid, or any other program involving the expenditure of public funds.

a. The provider and provider-in-fact after they knew or should have known of same have an affirmative duty to:

i. inform BHSF in writing of any such convictions, guilt pled, or no contest plea to the above felony criminal conduct on the part of the provider, provider-in-fact, their agents or affiliates;

ii. not hire, contract with, or affiliate with any person or entity who has been convicted, pled guilty to, or pled no contest to the above felony criminal conduct; and

iii. terminate any and all ownership, employment and contractual relationships with any person or entity that has been convicted, pled guilty to, or pled no contest to the above felony criminal conduct.

b. Failure to do so on the part of the provider or provider-in-fact within ten (10) working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact, their agents or affiliates is a violation of Paragraph 5 of this Subsection.

c. If three (3) years have passed since the completion of the sentence and no other criminal misconduct by that person has occurred during that three (3) year period, this provision is not violated. Criminal conduct, which has been pardoned, does not violate this provision.

11. Having been convicted of, pled guilty to, or pled no contest to Medicaid Fraud in a Louisiana court or any other criminal offense, including attempts to or conspiracy to commit a crime, relating to the performance of a provider agreement with the Medical Assistance Program is a violation of this provision. It is also a violation of this provision for a provider to employ, contract with, or otherwise affiliate with any person who has been convicted of, pled guilty, or pled no contest to Medicaid Fraud in a Louisiana court or any other criminal offense, including attempts to or conspiracy to commit a crime, relating to the performance of a provider agreement with the Louisiana Medicaid program.

a. The provider and provider-in-fact after they knew or should have known of same have an affirmative duty to:

i. inform BHSF in writing of any such convictions, guilty plea, or no contest plea to the above criminal conduct on the part of the provider, provider-in-fact, their agents or affiliates;

ii. not hire, contract with, or affiliate with any person or entity who has been convicted, plead guilty to, or plead no contest to the above criminal conduct; and

iii. terminate any and all ownership, employment and contractual relationships with any person or entity that has been convicted, plead guilty to, or plead no contest to the above criminal conduct.

b. Failure to do so on the part of the provider or provider-in-fact within ten (10) working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact, their agents or affiliates is a violation of Paragraph 5 of this Subsection.

c. If three (3) years have passed since the completion of the sentence and no other criminal misconduct by that person has occurred during that three (3) year period, this provision is not violated. Criminal conduct, which has been pardoned, does not violate this provision.

12. Having been convicted of, pled guilty, or pled no contest in federal court, any state court, or court of any United States territory to criminal conduct involving the negligent practice of medicine or any other activity or skill related to an activity or skill performed by or billed by that person or entity under the Medical Assistance Program or one of its programs or which caused death or serious bodily, emotional, or mental injury to an individual under their care is a violation of this provision. It is also a violation of this provision for a provider to employ, contract with, or otherwise affiliate with any person who has been convicted of, pled guilty, or pled no contest in federal court, any state court, or court of any United States territory to criminal conduct involving the negligent practice of medicine or any other activity or skill related to an activity or skill performed by or billed by that person or entity under the Medical Assistance Program or one of its programs or which caused death or serious bodily, emotional, or mental injury to an individual under their care.

a. The provider and provider-in-fact after they knew or should have known have an affirmative duty to:

i. inform BHSF in writing of any such convictions, guilty plea, or no contest plea to the above criminal conduct on the part of the provider, provider-in-fact, or their agents or affiliates;

ii. not hire, contract with, or affiliate with any person or entity who has been convicted, plead guilty to, or plead no contest to the above criminal conduct; and

iii. terminate any and all ownership, employment or contractual relationships with any person or entity that has been convicted, pled guilty to, or pled no contest to the above criminal conduct.

b. Failure to do so on the part of the provider or provider-in-fact within ten (10) working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact, their agents or affiliates is a violation of Paragraph 5 of this Subsection.

c. If three (3) years have passed since the completion of the sentence and no other criminal misconduct by that person has occurred during that three (3) year period, this provision is not violated. Criminal conduct, which has been pardoned, does not violate this provision.

13. Having been convicted of, pled guilty, or pled no contest to Medicaid, Medicare or health care fraud, including attempts to or conspiracy to commit Medicaid, Medicare or health care fraud or any other criminal offense related to the performance of or providing any goods, services, or supplies to Medicaid or Medicare recipients or billings to any Medicaid, Medicare, publicly funded health care or publicly funded health insurance programs in any state court, federal court or a court in any territory of the United States is a violation of this provision. It is also a violation of this provision for a provider to employ, contract with, or otherwise affiliate with any person who has been convicted of, plead guilty, or plead no contest to Medicaid, Medicare, or health care fraud, including attempts to or

conspiracy to commit Medicaid, Medicare or health care fraud, or any other criminal offense related to the performance of or providing any goods, services, or supplies to Medicaid or Medicare recipients or billings to any Medicaid, Medicare, publicly funded health care or publicly funded health insurance programs in any state court, federal court or a court in any territory of the United States.

a. The provider and provider-in-fact after they knew or should have known of same have an affirmative duty to:

i. inform BHSF in writing of any such convictions, guilty plea, or no contest plea to the above criminal conduct on the part of the provider, provider-in-fact, or their agents or affiliates;

ii. not hire, contract with, or affiliate with any person or entity who has been convicted, pled guilty to, or pled no contest to the above criminal conduct; and

iii. terminate any and all ownership, employment and contractual relationships with any person or entity that has been convicted, pled guilty to, or pled no contest to the above criminal conduct.

b. Failure to do so on the part of the provider or provider-in-fact within ten (10) working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact, their agents or affiliates is a violation of Paragraph 5 of this Subsection.

c. If three (3) years have passed since the completion of the sentence and no other criminal misconduct by that person has occurred during that three (3) year period, this provision is not violated. Criminal conduct that has been pardoned does not violate this provision.

14. Having been convicted of, pled guilty to, or pled no contest to in any federal court, state court, or court in any territory of the United States to any of the following criminal conduct, attempt to commit or conspiracy to commit any of the following crimes are violations of this provision:

a. bribery or extortion;

b. sale, distribution, or importation of a substance or item that is prohibited by law;

c. tax evasion or fraud;

d. money laundering;

e. securities or exchange fraud;

f. wire or mail fraud;

g. violence against a person;

h. act against the aged, juveniles or infirmed;

i. any crime involving public funds; or

j. other similar felony criminal conduct.

i. The provider and provider-in-fact after they knew or should have known of same have an affirmative duty to:

(a). inform BHSF in writing of any such criminal charges, convictions, or pleas on the part of the provider, provider-in-fact, their agents, or their affiliates;

(b). not hire, contract with, or affiliate with any person or entity who has engaged in any such criminal misconduct; and

(c). terminate any and all ownership, employment and contractual relationships with any person or entity that has engaged in any such criminal misconduct.

ii. Failure to do so on the part of the provider or provider-in-fact within ten (10) working days of when the provider or provider-in-fact knew or should have known of

any violation of this provision by the provider, provider-in-fact, their agents or their affiliates is a violation of Paragraph 5 of this Subsection.

iii. If three (3) years have passed since the completion of the sentence and no other criminal misconduct by that person has occurred during that three (3) -year period, this provision is not violated. Criminal conduct that has been pardoned does not violate this provision.

15. Being found in violation of or entering into a settlement agreement under this state's Medical Assistance Program Integrity Law, the Federal False Claims Act, Federal Civil Monetary Penalties Act, or any other similar civil statutes in this state, in any other state, United States or United States territory is a violation of this provision.

a. Relating to violations of this provision, the provider and provider-in-fact after they knew or should have known have an affirmative duty to:

i. inform BHSF in writing of any violations of this provision on the part of the provider, provider-in-fact, their agents or their affiliates;

ii. not hire, contract with or affiliate with any person or entity who has violated this provision; and

iii. terminate any and all ownership, employment and contractual relationships with any person or entity that has violated this provision.

b. Failure to do so on the part of the provider or provider-in-fact within ten (10) working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact, their agents or their affiliates is a violation of Paragraph 5 of this Subsection.

c. If a False Claims Act action or other similar civil action is brought by a Qui-Tam plaintiff or under a little attorney general or other similar provision, no violation of this provision has occurred until the defendant has been found liable in the action.

d. If three (3) years have passed from the time a person is found liable or entered a settlement agreement under the False Claims Act or other similar civil statute and the conditions of the judgement or settlement have been satisfactorily fulfilled, no violation has occurred under this provision.

16. Failure to correct the deficiencies or problem areas listed in a notice of corrective action or failure to meet the provisions of a corrective action plan or failure to correct deficiencies in delivery of goods, services, or supplies or deficiencies in billing practices or record keeping after receiving written notice to do so from the Secretary, Director of BHSF or Director of Program Integrity is a violation of this provision.

17. Having presented, causing to be presented, attempting to present, or conspiring to present false, fraudulent, fictitious, or misleading claims or billings for payment or reimbursement to the Medical Assistance Program through BHSF or its authorized fiscal intermediary for goods, services, or supplies, or in documents related to a cost report or other similar submission is a violation of this provision.

18. Engaging in the practice of charging or accepting payments, in whole or in part, from one or more recipients for goods, services, or supplies for which the provider has made or will make a claim for payment to the Louisiana

Medicaid program is a violation of this provision, unless this prohibition has been specifically excluded within the program under which the claim was submitted or will be made or the payment by the recipient is an authorized copayment or is otherwise specifically authorized by law or regulation. Having engaged in practices prohibited by R.S. 46:438.2 or the federal anti-kickback or anti-referral statutes is also a violation of this provision.

19. Having rebated or accepted a fee or a portion of a fee or anything of value for a Medicaid recipient referral is a violation of this provision, unless this prohibition has been specifically excluded within the program or is otherwise authorized by statute or regulation, rule, policy, criteria or procedure of the department through BHSF. Having engaged in practices prohibited by R.S. 46:438.2 or the federal anti-kickback or anti-referral statutes is also a violation of this provision.

20. Paying to another a fee in cash or kind for the purpose of obtaining recipient lists or recipients names is a violation of this provision, unless this prohibition has been specifically excluded within the program or is otherwise authorized by statute or regulation, rule, policy, criteria or procedure of the department through BHSF. Using or possessing any recipient list or information, which was obtained through unauthorized means, or using such in an unauthorized manner is also a violation of this provision. Having engaged in practices prohibited by R.S. 46:438.2 or R.S. 46:438.4 or the federal anti-kickback or anti-referral statutes is also a violation of this provision.

21. Failure to repay or make arrangements to repay an identified overpayment or otherwise erroneous payment within ten (10) working days after the provider or provider-in-fact receives written notice of same is a violation of this provision. Failure to pay any and all administrative or court ordered restitution, civil money damages, criminal or civil fines, monetary penalties or costs or expenses is also a violation of this provision. Failure to pay any assessed provider fee or payment is also a violation of this provision.

22. Failure to keep or make available for inspection, audit, or copying records related to the Louisiana Medicaid program or one or more of its programs for which the provider has been enrolled or issued a provider number or has failed to allow BHSF or its fiscal intermediary or any other duly authorized governmental entity an opportunity to inspect, audit, or copy those records is a violation of this provision. Failure to keep records required by Medicaid or one of its programs until payment review has been conducted is also a violation of this provision;

23. Failure to furnish or arrange to furnish information or documents to BHSF within five (5) working days after receiving a written request to provide that information to BHSF or its fiscal intermediary is a violation of this provision.

24. Failure to cooperate with BHSF, its fiscal intermediary or the investigating officer during the post-payment or prepayment process, investigative process, an investigatory discussion, informal hearing or the administrative appeal process or any other legal process or making, or caused to be made, a false or misleading statement of a material fact in connection with the post-payment or prepayment process, corrective action, investigation process, investigatory discussion, informal

hearing or the administrative appeals process or any other legal process is a violation of this provision. The exercising of a constitutional or statutory right is not a failure to cooperate. Requests to for scheduling changes or asking questions are not grounds for failure to cooperate.

25. Making, or causing to be made, a false, fictitious or misleading statement or making, or caused to be made, a false, fictitious or misleading statement of a fact in connection with the administration of the Medical Assistance Program which the person knew or should have known was false, fictitious or misleading is a violation of this provision. This includes, but is not limited to, the following:

- a. claiming costs for noncovered or nonchargeable services, supplies, or goods disguised as covered items;
- b. billing for services, supplies, or goods which are not rendered to person(s) who are eligible to receive the services, supplies, or goods;
- c. misrepresenting dates and descriptions and the identity of the person(s) who rendered the services, supplies, or goods;
- d. duplicate billing that are abusive, willful or fraudulent;
- e. upcoding of services, supplies, or goods provided;
- f. misrepresenting a recipient's need or eligibility to receive services, goods, or supplies or the recipients eligibility for a program;
- g. improperly unbundling goods, services, or supplies for billing purposes;
- h. misrepresenting the quality or quantity of services, goods, or supplies;
- i. submitting claims for payment for goods, services, and supplies provided to nonrecipients if the provider knew or should have known that the individual was not eligible to receive the good, supply, or service at the time the good, service, or supply was provided or billed.
- j. Furnishing or causing to be furnished goods, services, or supplies to a recipient which;
 - i. are in excess of the recipient's needs;
 - ii. were or could be harmful to the recipient;
 - iii. serve no real medical purpose;
 - iv. are of grossly inadequate or inferior quality;
 - v. were furnished by an individual who was not qualified under the applicable Louisiana Medicaid program to provide the good, service, or supply;
 - vi. the good, service, or supply was not furnished under the required programmatic authorization; or
 - vii. the goods, services or supplies provided were not provided in compliance with the appropriate licensing or certification board's regulations, rules, policies or procedures governing the conduct of the person who provided the goods, services or supplies.
- k. providing goods, services, or supplies in a manner or form that is not within the normal scope and range of the standards used within the applicable profession.

l. billing for goods, services, or supplies in a manner inconsistent with the standards established in relevant billing codes or practices.

26. In the case of a managed care provider or provider operating under a voucher, notwithstanding any contractual agreements to the contrary, failure to provide all medically

necessary goods, services, or supplies of which the recipient is in need of and entitled to is a violation of this provision.

27. Submitting bills or claims for payment or reimbursement to the Louisiana Medicaid program through BHSF or its fiscal intermediary on behalf of a person or entity which is serving out a period of suspension or exclusion from participation in the Medical Assistance Program or one of its programs, Medicare, Medicaid, publicly funded health care or publicly funded health insurance program in any other state or territory of the United States or the United States is a violation of this provision except for bona fide emergency services provided during a bona fide medical emergency.

28. Engaging in a systematic billing practice which is abusive or fraudulent and which maximizes the costs to the Louisiana Medicaid program after written notice to cease such billing practice(s) is a violation of this provision.

29. Failure to meet the terms of an agreement to repay or settlement agreement entered into under this state's Medical Assistance Program Integrity Law or this regulation is a violation of this provision.

30. If the provider, a person with management responsibility for a provider, an officer or person owning, either directly or indirectly, any shares of stock or other evidence of ownership in a corporate provider, an owner of a sole proprietorship which is a provider, or a partner in a partnership which is a provider, is found to fall into one or more of the following categories:

a. the provider was previously terminated from participation in the Louisiana Medicaid program or one or more of its programs; and

i. was a person with management responsibility for a previously terminated provider during the time of the conduct which was the basis for that provider's termination from participation in the Louisiana Medicaid program or one or more of its programs; or

ii. was an officer or person owning, directly or indirectly, any shares of stock or other evidence of ownership in a previously terminated provider during the time of the conduct which was the basis for that provider's termination from participation in the Louisiana Medicaid program or one or more of its programs; or

iii. was an owner of a sole proprietorship or a partner of a partnership in a previously terminated provider during the time of the conduct which was the basis for that provider's termination from participation in the Louisiana Medicaid program or one or more of its programs.

b. the provider has been found to have engaged in practices prohibited by federal or state law or regulation; and

i. was a person with management responsibility for a provider during the time the provider engaged in practices prohibited by federal or state law or regulation; or

ii. was an officer or person owning, directly or indirectly, any shares of stock or other evidence of ownership in a provider during the time the provider engaged in practices prohibited by federal or state law or regulation; or

iii. was an owner of a sole proprietorship or a partner of a partnership which was a provider during the time the provider engaged in practices prohibited by federal or state law or regulation.

c. the provider was convicted of Medicaid or Medicare fraud or other criminal misconduct related to Medicaid or Medicare under federal or state law;

i. was a person with management responsibility for a provider during the time the provider engaged in practices for which the provider was convicted of Medicaid or Medicare fraud or other criminal misconduct related to Medicaid or Medicare under federal or state law;

ii. was an officer or person owning, directly or indirectly, any of the shares of stock or other evidence of ownership in a provider during the time the provider engaged in practices the provider was convicted of Medicaid or Medicare fraud or other criminal misconduct related to Medicaid or Medicare under federal or state law;

iii. was an owner of a sole proprietorship or a partner of a partnership which was a provider during the time the provider engaged in practices the provider was convicted of Medicaid or Medicare fraud or other criminal misconduct related to Medicaid or Medicare under federal or state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1642 (September 1999).

§4131. Scope of a Violation

A. Violations may be imputed in the following manner.

1. The conduct of a provider-in-fact is always attributable to the provider. The conduct of a managing employee is always attributable to the provider and provider-in-fact.

2. The conduct of an agent of the provider, billing agent, or affiliate of the provider may be imputed to the provider or provider-in-fact if the conduct was performed within the course of his duties for the provider or was effectuated by him with the knowledge or approval of the provider or provider-in-fact.

3. The conduct of any person or entity operating on behalf of a provider may be imputed to the provider or provider-in-fact.

4. The provider and provider-in-fact are responsible for the conduct of any and all officers, employees or agents of the provider including any with whom the provider has a contract to provide managerial or administrative functions for the provider or to provide goods, services, or supplies on behalf of the provider. The conduct of these persons or entities may be imputed to the provider or provider-in-fact.

5. A violation under one Medicaid number may be extended to any and all Medicaid Numbers held by the provider or provider-in-fact or which may be obtained by the provider or provider-in-fact.

6. Recoupments or recoveries may be made from any payments or reimbursement made under any and all provider numbers held by or obtained by the provider or provider-in-fact.

7. Any sanctions, including recovery or recoupment, imposed on a provider or provider-in-fact shall remain in effect until its terms have been satisfied. Any person or entity who purchases, merges or otherwise consolidates with a provider or employs or affiliates a provider-in-fact, agent of the provider or affiliate of a provider who has had sanctions imposed on it under this regulation assumes

liability for those sanctions, if the person or entity knew or should have known about the existence of the sanctions, and may be subject to additional sanctions based on the purchase, merger, consolidation, affiliation or employment of the sanctioned provider or provider-in-fact.

8. A provider or provider-in-fact who refers a recipient to another for the purpose of providing a good, service, or supply to a recipient may be held responsible for any or all over-billing by the person to whom the recipient was referred provided the referring provider or person knew or should have known that such over-billing was likely to occur.

9. Providers which are legal entities, i.e. clinics, corporations, HMO's, PPO's, etc., may be held jointly liable for the repayment or recoupment of any person within that legal entity if it can be shown that the entity received any economic benefit related to the overpayment.

10. Withholdings of payments imposed on a provider may be extended to any or all provider numbers held or obtained by that provider or any provider-in-fact of that provider.

B. Attributing, imputing, extension or imposing under this provision shall be done on a case-by-case basis with written reasons for same. The written reasons must demonstrate that the imputing was based on knowledge of the violation and that the person to which it was imputed received an economic benefit as a result of the violation. The person to whom the violation has been imputed may only be sanctioned up to the amount of the economic benefit received by that individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1637 (September 1999).

§4133. Types of Violation

A. Violations can be of four different types: aberrant; abusive; willful; or fraudulent. This Subsection defines these four different types of violations.

1. *Aberrant Practice*—any practice that is inconsistent with the laws, regulations, rules, policies, criteria or practices or the terms in the provider agreement or signed forms related to the provider agreement and are applicable to the Louisiana Medicaid program or one or more of its programs in which the provider is enrolled or was enrolled at the time of the alleged occurrence.

2. *Abusive Practice*—any practice of which the provider has been informed in writing by the Secretary, Director of BHSF, or Director of Program is aberrant, and the provider, provider-in-fact, agent of the provider, or an affiliate of the provider continues to engage in that practice after the written notice to discontinue such a practice has been provided to the provider or provider-in-fact.

3. *Willful Practice*—a deception or misrepresentation made by a person who knew, or should have known, that the deception or misrepresentation was false, untrue, misleading, or wrong or an aberrant or abusive practice which is so pervasive as to indicate that the practice was willful. A willful practice also includes conduct that would be in violation of this state's Medical Assistance Program Integrity Law.

4. *Fraudulent Practice*—a deception or misrepresentation made by a person who had knowledge that the deception or misrepresentation was false, untrue or wrong or deliberately failed to take reasonable steps to determine the truthfulness or correctness of information, and the deception or misrepresentation did or could have resulted in payment of one or more claims for which payment should not have been made or payment on one or more claims which would or could be greater than the amount entitled to. This includes any act or attempted act that could constitute fraud under either criminal or civil standards under applicable federal or Louisiana law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1643 (September 1999).

§4135. Elements

A. Each type of violation contains different elements, which must be established.

1. An aberrant practice is a technical or inadvertent violation where the person did not knowingly engage in prohibited conduct. A finding of an aberrant practice does not require proof of knowledge, intent, or overpayment or attempted overpayment.

2. An abusive practice occurs where the person has been informed in writing that the person has engaged in an aberrant practice and the person continues to engage in the practice after such notice but the person has not obtained or attempted to obtain an overpayment. A finding of an abusive practice requires notice of the aberrant practice and its continued existence following that notice, but does not require proof of intent or overpayment or attempted overpayment.

3. A willful practice occurs when the person knew or should have known of the prohibited conduct and the person has obtained or attempted to obtain overpayment. A finding of willful practice requires that the person knew or should have known of the deception or misrepresentation, but does not require proof of intent or overpayment or attempted overpayment.

4. A fraudulent practice occurs when the person had actual knowledge of the prohibited conduct and knowingly obtained or attempted to obtain overpayment. A finding of fraudulent practice requires knowledge, intent and overpayment or attempted overpayment.

B. Providers, providers-in-fact, agents of the provider, affiliates of the provider and other persons may be found to have engaged in the same prohibited conduct but committed different types of violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1644 (September 1999).

Subchapter E. Administrative Sanctions, Procedures and Processes

§4137. Sanctions for Prohibited Conduct

A. Any or all of the following sanctions may be imposed for any one or more of the above listed kinds of prohibited conduct, except as provided for in this regulation:

1. issue a warning to a provider or provider-in-fact or other person through written notice or consultation;

2. require that the provider or provider-in-fact, their affiliates, and agents receive education and training in laws, regulations, rules, policies, criteria and procedures, including billing, at the provider's expense;

3. require that the provider or provider-in-fact receive prior authorization for any or all goods, services or supplies under the Louisiana Medicaid program or one or more of its programs;

4. require that some or all of the provider's claims be subject to manual review.

5. require a provider or provider-in-fact to post a bond or other security or increase the bond or other security already posted as a condition of continued enrollment in the Louisiana Medicaid program or one or more of its programs;

6. require that a provider terminate its association with a provider-in-fact, agent of the provider, or affiliate as a condition of continued enrollment in the Louisiana Medicaid program or one or more of its programs;

7. prohibit a provider from associating, employing or contracting with a specific person or entity as a condition of continued participation in the Louisiana Medicaid program or one or more of its programs;

8. prohibit a provider, provider-in-fact, agent of the provider, billing agent or affiliate of the provider from performing specified tasks or providing goods, services, or supplies at designated locations or to designated recipients or classes or types of recipients;

9. prohibit a provider, provider-in-fact, or agent from referring recipients to another designated person or purchasing goods, services, or supplies from designated persons;

10. recoupment;

11. recovery;

12. impose judicial interest on any outstanding recovery or recoupment;

13. impose reasonable costs or expenses incurred as the direct result of the investigation or review, including but not limited to the time and expenses incurred by departmental employees or agents and the fiscal intermediary's employee or agent;

14. exclusion from the Louisiana Medicaid program or one or more of its programs;

15. suspension from the Louisiana Medicaid program or one or more of its programs pending the resolution of the departments administrative appeals process;

16. impose a bond or other form of security as a condition of continued participation in the Medical Assistance Program;

17. require the forfeiture of a bond or other security;

18. impose an arrangement to repay;

19. impose monetary penalties not to exceed \$10,000 per violation;

20. impose withholding of payments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1644 (September 1999).

§4139. Scope of Sanctions

A. Sanction(s) imposed can be extended to other persons or entities and to other provider numbers held or obtained by the provider in the following manner:

1. sanction(s) imposed on a provider or provider-in-fact may be extended to a provider or provider-in-fact;

2. sanction(s) imposed on an agent of the provider or affiliate of the provider may be imposed on the provider or provider-in-fact if it can be shown that the provider or provider-in-fact knew or should have known about the violation(s) and failed to report the violation(s) to BHSF in writing in a timely manner;

3. sanction(s) imposed on a provider or provider-in-fact arising out of goods, services, or supplies to a referred recipient may also be imposed on the referring provider if it can be shown that the provider or provider-in-fact knew or should have known about the violation(s) and failed to report the violation(s) to BHSF in writing in a timely manner;

4. sanction(s) imposed under one provider number may be extended to all provider numbers held by or which may be obtained in the future by the sanctioned provider or provider-in-fact, unless and until the terms and conditions of the sanction(s) has been fully satisfied.

5. sanction(s) imposed on a person remains in effect unless and until its terms and conditions are fully satisfied. The terms and conditions of the sanction(s) remain in effect in the event of the sale or transfer of ownership of the sanctioned provider;

a. the entity or person who obtains ownership interest in a sanctioned provider assumes liability and responsibility for the sanctions imposed on the purchased provider including, but not limited to, all recoupments or recovery of funds or arrangements to repay that the entity or person knew or should have known about;

b. an entity or person who employs or otherwise affiliates itself with a provider-in-fact who has been sanctioned assumes the liability and responsibility for the sanctions imposed on the provider-in-fact that the entity or person knew or should have known about;

c. any entity or person who purchases an interest in, merges with or otherwise consolidates with a provider which has been sanctioned assumes the liability and responsibility for the sanction(s) imposed on the provider that the entity or person knew or should have known about.

B. Exclusion from participation in the Louisiana Medicaid program precludes any such person from submitting claims for payment, either personally or through claims submitted by any other person or entity, for any goods, services, or supplies provided by an excluded person or entity, except bona fide emergency services provided during a bona fide medical emergency. Any payments made to a person or entity, which are prohibited by this provision, shall be immediately repaid to the Medical Assistance Program through BHSF by the person or entity which received the payments.

C. No provider shall submit claims for payment to the department or its fiscal intermediary for any goods, services, or supplies provided by a person or entity within that provider who has been excluded from the Medical Assistance Program or one or more of its programs for goods, services, or supplies provided by the excluded person

or entity under the programs which it has been excluded from except for goods, services, or supplies provided prior to the exclusion and for bona fide emergency services provided during a bona fide medical emergency. Any payments made to a person or entity, which are prohibited by this provision, shall be immediately repaid to the Medical Assistance Program through BHSF by the person or entity which received the payments.

D. When the provisions of §4133 B-C are violated, the person or entity which committed the violations may be sanctioned using any and all of the sanctions provided for in this rule.

E. Extending of sanctions must be done on a case-by-case basis.

F. The provisions in R.S. 46:437.10 shall apply to all sanctions and withholding of payments imposed pursuant to this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1645 (September 1999).

§4141. Imposition of Sanction(s)

A. The decision as to the sanction(s) to be imposed shall be at the discretion of the Director of BHSF and Director of Program Integrity except as provide for in this provision, unless the sanction is mandatory. In order to impose a sanction the Director of BHSF and the Director of Program Integrity must concur. One or more sanctions may be imposed for a single violation. The imposition of one sanction does not preclude the imposition of another sanction for the same or different violations.

B. At the discretion of the Director of BHSF and the Director of Program Integrity each occurrence of misconduct may be considered a violation or multiple occurrences of misconduct may be considered a single violation or any combination thereof.

C. The following factors may be considered in determining the sanction(s) to be imposed:

1. seriousness of the violation(s);
2. extent of the violation(s);
3. history of prior violation(s);
4. prior imposition of sanction(s);
5. prior provision of education;
6. willingness to obey program rules;
7. whether a lesser sanction will be sufficient to remedy the problem;
8. actions taken or recommended by peer review groups or licensing boards;
9. cooperation related to reviews or investigations by the department or cooperation with other investigatory agencies; and
10. willingness and ability to repay identified overpayments.

D. Notwithstanding §4141.A, sanctions of judicial interest, costs and expenses may only be imposed upon a finding willful or fraudulent practice or upon a finding that the persons' denial of prohibited conduct was frivolous.

E. Notwithstanding §4141.A, a monetary penalty may be imposed only after a finding that the violation involved a willful or fraudulent practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law)

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1645 (September 1999).

§4143. Mandatory Sanctions

A. Mandatory Exclusion from the Medical Assistance Program. Notwithstanding any other provision to the contrary, Director of BHSF and Director of Program Integrity have no discretion and must exclude the provider, provider-in-fact or other person from the Medical Assistance Program if the violation involves one or more of the following:

1. a conviction, guilty plea, or no contest plea to a criminal offense(s) in federal or Louisiana state court related, either directly or indirectly, to participation in either Medicaid or Medicare;

2. has been excluded from Louisiana Medicaid or Medicare; or

3. has failed to meet the terms and conditions of a Repayment Agreement, settlement or judgment entered into under this state's Medical Assistance Program Integrity Law.

4. In these situations the exclusion from the Medical Assistance Program is automatic and can be longer than, but not shorter in time than, the sentence imposed in criminal court, the exclusion from Medicaid or Medicare or time provided to make payment;

a. The exclusion is retroactive to the time of the conviction, plea, exclusion, the date the repayment agreement was entered by the department or the settlement or judgment was entered under this state's Medical Assistance Program Integrity Law;

b. proof of the conviction, plea, exclusion, failure to meet the terms and conditions of a repayment agreement, or settlement or judgment entered under this state's Medical Assistance Program Integrity Law can be made through certified or true copies of the conviction, plea, exclusion, agreement to repay, settlement, or judgment or via affidavit.

i. if the conviction is overturned, plea set aside, or exclusion or judgment are reversed on appeal, the mandatory exclusion from the Medical Assistance Program shall be removed;

ii. the person or entity that is excluded from the Medical Assistance Program under this Subsection is entitled to an administrative appeal of a mandatory exclusion;

iii. the facts and law surrounding the criminal matter, exclusion, repayment agreement or judgment which serves as the basis for the mandatory exclusion from the Medical Assistance Program cannot be collaterally attacked at the administrative appeal.

B. Mandatory Arrangements to Pay, Recoupment or Recovery. If the violation(s) was fraudulent or willful and resulted in an identified overpayment, the Secretary, Director of BHSF, and Director of Program Integrity has no discretion. The person or entity must have imposed on them an arrangement to repay, recoupment or recovery of the identified overpayment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1646 (September 1999).

§4145. Effective Date of a Sanction

All sanctions, except exclusion, are effective upon the issuing of the notice of the results of the informal hearing. The filing of a timely and adequate notice of administrative appeal does not suspend the imposition of a sanction(s), except that of exclusion. In the case of the imposition of exclusion from the Louisiana Medicaid Program or one or more of its programs, the filing of a timely and adequate notice of appeal suspends the exclusion. In the case of an exclusion, the Director of BHSF and Director of Program Integrity may impose a suspension from the Medical Assistance Program or one or more of its programs during the pendency of an administrative appeal. A sanction becomes a final administrative adjudication if no administrative appeal has been filed, and the time for filing an administrative appeal has run. Or in the case of a timely filed notice of administrative appeal, a sanction(s) becomes a final administrative adjudication when the order on appeal has been entered by the Secretary. In order for an appeal to be filed timely it must be sent to the Department's Bureau of Appeals within thirty (30) days from the date on the letter informing the person of the results of that person's informal discussion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1646 (September 1999).

Subchapter F. Withholding

§4147. Withholding of Payments

A. If, during the course of claims review, the Director of BHSF and the Director of Program Integrity has a reasonable expectation that an overpayment to a provider may have occurred or may occur, that a provider or provider-in-fact has failed to cooperate or attempted to delay or obstruct an investigation, or has information that fraudulent, willful or abusive practices may have been used, or that willful misrepresentations may have occurred, the Director of BHSF and the Director of Program Integrity may initiate the withholding of payments to a provider for the purpose of protecting the interest and fiscal integrity of the Louisiana Medicaid program.

B. Basis for Withholding. The Director of BHSF and the Director of Program Integrity may withhold a portion of or all payments or reimbursements to be made to a provider upon receipt of information that overpayments have been made to a provider, that the provider or provider-in-fact has failed to cooperate or attempted to delay or obstruct an investigation (a request for a delay in a hearing shall not constitute a failure to cooperate or delay or obstruction of an investigation), that fraudulent, willful or abusive practices may have occurred or that willful misrepresentation has occurred. If the Director of BHSF and the Director of Program Integrity has been informed in writing by a prosecuting authority that a provider or provider-in-fact has been formally charged or indicted for crimes or is being investigated for potential criminal activities which relate to the Louisiana Medicaid Program or one or more of its

programs or Medicare, payments to that provider may be withheld. If the Director of BHSF and the Director of Program Integrity has been informed in writing by any governmental agency or authorized agent of a governmental agency that a provider or a provider-in-fact is being investigated by that governmental agency or its authorized agent for billing practices related to any government funded health care program, payment may be withheld. Withholding of payments may occur without first notifying the provider.

C. Notice of Withholding

1. The provider shall be sent written notice of the withholding of payments within five (5) working days of the actual withholding of the first check that is the subject of the withholding. The notice shall set forth in general terms the reason(s) for the action, but need not disclose any specific information concerning any ongoing investigations nor the source of the allegations. The notice must:

- a. state that payments are being withheld;
- b. state that the withholding is for a temporary period and cite the circumstances under which the withholding will be terminated;
- c. specify to which type of Medicaid claims withholding is effective;
- d. inform the provider of its right to submit written documentation for consideration and to whom to submit that documentation.

2. Failure to provide timely notice of the withholding to the provider or provider-in-fact may be grounds for dismissing or overturning the withholding, except in cases involving written notification from outside governmental authorities, abusive practice, willful practices or fraudulent practices.

D. Duration of Withholding

1. All withholding of payment actions under this Subpart will be temporary and will not continue after:

- a. the Director of BHSF and the Director of Program Integrity has determined that insufficient information exists to warrant the withholding of payments;
- b. recoupment or recovery of overpayments has been imposed on the provider;
- c. the provider or provider-in-fact has posted a bond or other security deemed adequate to cover all past and future projected overpayments by the Director of BHSF and the Director of Program Integrity ;
- d. the notice of the results of the informal hearing.

2. In no case shall withholding remain in effect past the issuance of the notice of the results of the informal hearing, unless the withholding is based on written notification by an outside agency that an active and ongoing criminal investigation is being conducted or that formal criminal charges have been brought. In that case, the withholding may continue for as long as the criminal investigation is active and ongoing or the criminal charges are still pending, unless adequate bond or other security has been posted with BHSF.

E. Amount of the Withholding

1. If the withholding of payment results from projected overpayments which the Director of BHSF and the Director of Program Integrity determines not to be related to fraudulent, willful or abusive practices, obstruction or delay in investigation or based on written notification from an outside agency, then when determining the amount to be

withheld, the ability of the provider to continue operations and the needs of the recipient serviced by the provider shall be taken into consideration by the Director of BHSF and the Director of Program Integrity. In the event that a recipient cannot receive needed goods, services or supplies from another source arrangements shall be made to assure that the recipient can receive goods, supplies, and services. The burden is on the provider to demonstrate that absent that providers ability to provide goods, supplies, or services to that recipient, the recipient could not receive needed goods, supplies, or services. Such showing must be made at the Informal Hearing.

2. The amount of the withholding shall be determined by the Director of BHSF and the Director of Program Integrity. The provider should be notified of the amount withheld every 60 days from the date of the issuing of the Notice of Withholding until the withholding is terminated or the Results of the Informal Hearing is issued, which ever comes first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1646 (September 1999).

§4149. Effect of Withholding on the Status of a Provider or Provider-in-Fact with the Medical Assistance Program

Withholding of payments does not, in and of its self, affect the status of a provider or provider-in-fact. During the period of withholding, the provider may continue to provide goods, services, or supplies and continue to submit claims for them, unless the provider has been suspended or excluded from participation. Any and all amounts withheld or bonds or other security posted may be used for recovery, recoupment or arrangements to pay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1647 (September 1999).

Subchapter H. Arrangements to Repay

§4151. Arrangement to Repay

A. Arrangements to repay may be mutually agreed to or imposed as a sanction on a provider, provider-in-fact or other person. Arrangements to repay identified overpayments, interest, monetary penalties or costs and expenses should be made through a lump sum single payment within 60 days of reaching or imposing the arrangement to repay. However, an agreement to repay may contain installment terms and conditions. In such cases, the repayment period cannot extend two years from the date the agreement is reached or imposed, except that a longer period may be established by the Secretary or Director of BHSF. In such a case the agreement to repay must be signed by the Secretary or Director of BHSF.

B. All agreements to repay must contain at least:

1. the amount to be repaid;
2. the person(s) responsible for making the repayments;
3. a specific time table for making the repayment;

4. if installment payments are involved, the date upon which each installment payment is to be made; and

5. the security posted to assure that the repayments will be made, and if not made, the method through which the security can be seized and converted by Medicaid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR. 25:1647 (September 1999).

Subchapter I. Corrective Actions

§4153. Corrective Actions Plans

A. The following procedures are established for the purpose of attempting to resolve problems prior to the issuing of a notice of sanction or for resolution during the informal hearing or administrative hearing.

1. Corrective Action Plan-Notification

a. The Director of BHSF and the Director of Program Integrity may at anytime issue a notice of corrective action to a provider or provider-in-fact, agent of the provider, or affiliate of the provider. The provider, provider-in-fact, agent of the provider, or affiliate of the provider shall either comply with the corrective action plan within ten (10) working days of receipt of the corrective action plan or request an informal hearing within that time. The purpose of a Corrective Action Plan is to identify potential problem areas and correct them before they become significant discrepancies, deviations or violations. This is an informal process.

i. The request for an informal hearing must be made in writing.

ii. If the provider, provider-in-fact, agent of the provider, or affiliate of the provider opts to comply, it must do so in writing, signed by the provider, provider-in-fact, agent of the provider, or affiliate of the provider.

b. Corrective action plans are also used to resolve matters at or before the informal hearing or administrative appeal process. When so used they serve the same function as a settlement agreement.

2. Corrective Action Plan-Inclusive Criteria. The corrective action plan must be in writing and contain at least the following:

a. the nature of the discrepancies or violations;

b. the corrective action(s) that must be taken;

c. notification of any action required of the provider, provider-in-fact, agent of the provider, billing agent or affiliate of the provider;

d. notification of the right to an informal hearing on any or all of the corrective actions which the provider, provider-in-fact, agent of the provider, or affiliate of the provider is not willing to comply with within ten (10) working days of the date of receipt of the notice; and

e. the name, address, telephone and facsimile number of the individual to contact in regards to compliance or requesting an informal hearing.

3. Corrective Action Plans-Restrictions. Corrective actions, which may be included in a corrective action plan, are the following:

a. issuing a warning through written notice or consultation;

b. require that the provider, provider-in-fact, agent of the provider, or affiliate receive education and training in

the law, regulations, rules, policies, criteria and procedures related to the Medical Assistance Program, including billing practices or programmatic requirements and practices. Such education or training may be at the provider or provider-in-fact's expense.

c. require that the provider receive prior authorization for any or all goods, services, or supplies to be rendered;

d. place the provider's claims on manual review status before payment is made;

e. restrict or remove the provider's privilege to submit bills or claims electronically;

f. impose any restrictions deemed appropriate by the Director of BHSF and the Director of Program Integrity; or

g. any other items mutually agreed to by the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider or other person and the Director of BHSF or the Director of Program Integrity, including, but not limited to, one or more of the sanctions listed in this regulation and an agreement to repay.

4. Only restrictions in §4153.A.3.a-f above can be imposed on a provider, provider-in-fact, agent of the provider, billing agent, or affiliate of the provider without their agreement. Any other items included in a corrective action plan must be mutually agreed to among the parties to the corrective action plan.

5. A corrective action plan is effective ten (10) days after receipt of the Corrective Action Plan by the provider, provider-in-fact, agent of the provider, or affiliate of the provider.

6. No right to an informal hearing or administrative appeal can arise from a corrective action plan, unless the corrective action plan violates the provisions of this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1648 (September 1999).

Subchapter J. Informal Hearing Procedures and Processes

§4155. The Informal Hearing

A. A provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider or other person who has received notice of a corrective action(s), notice of sanction or notice of withholding of payment shall be provided with an Informal Hearing if that person makes a written request for an Informal Hearing within fifteen (15) days of receipt of the corrective action plan or notice. The request for an Informal Hearing must be made in writing and sent in accordance with the instruction in the corrective action plan or notice. The time and place for the informal hearing will be set out in the notice of setting of the informal hearing.

B. The informal hearing is designed to provide the opportunity:

1. to provide the provider, provider-in-fact, agent of the provider, billing agent, the affiliate of the provider or other person an opportunity to informally review the situation;

2. for BHSF to offer alternatives based on information presented by the provider, provider-in-fact, agent of the

provider, billing agent, affiliate of the provider, or other person, if any; and

3. for the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider or other person to evaluate the necessity for seeking an administrative appeal. During the informal hearing, the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider or other person may be afforded the opportunity to talk with the department's personnel involved in the situation, to review pertinent documents on which the alleged violations are based, to ask questions, to seek clarification, to provide additional information and be represented by counsel or other person. Upon agreement of all parties an informal discussion may be recorded or transcribed.

C. Notice of the Results of the Informal Hearing. Following the informal hearing, BHSF shall inform the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider or other person in writing of the results which could range from canceling, modifying, or upholding any or all of the violations, sanctions or other actions contained in a corrective action plan, notice of sanction or notice of withholding of payments and the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider or other person's right to an administrative appeal. The notice of the results of the informal hearing must be signed by the Director of BHSF and the Director of Program Integrity.

1. The provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider or other person has the right to request an administrative appeal within thirty (30) days of the mailing of the notice of the results of the informal hearing. At any time prior to the issuance of the written results of the informal hearing, the notice of corrective action or notice of administrative sanction or withholding of payment may be modified.

i. If a finding or reason is dropped from the notice, no additional time will be granted to the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider or other person to prepare for the informal hearing.

ii. If additional reasons or sanctions are added to the notice prior to, during or after the informal hearing, the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider or other person shall be granted an additional ten (10) working days to prepare responses to the new reasons or sanctions, unless the ten (10) day period is waived by the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider or other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1648 (September 1999).

Subchapter K. Administrative Appeals

§4157. Administrative Appeal

A. The provider, provider-in-fact, agent of the provider, billing agent, or affiliate of the provider may seek an administrative appeal from the notice of the results of an informal hearing if the provider, provider-in-fact, agent of the provider, billing agent, or affiliate of the provider has

had one or more appealable sanctions imposed upon him or an appealable issue exist related to a corrective action plan imposed in a notice of the results of the informal hearing.

B. The notice of administrative appeal must be adequate as to form and lodged with the Bureau of Appeals within thirty (30) days of the receipt of the notice of the results of the informal hearing. The lodging of a timely and adequate request for an administrative appeal does not effect the imposition of a corrective action plan or a sanction, unless the sanction imposed is exclusion. All sanctions imposed through the notice of the results of the informal hearing are effective upon mailing or faxing of the notice of the results of the informal hearing to the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider or other person, except exclusion from participation in the Medical Assistance Program or one or more of its programs.

C. In the case of an exclusion from participation, if the Director of BHSF and the Director of Program Integrity determines that allowing that person to participate in the Medicaid Program during the pendency of the administrative appeal process poses a threat to the programmatic or fiscal integrity of the Medicaid Program or poses a potential threat to health, welfare or safety of any recipients, then that person may be suspended from participation in the Medicaid Program during the pendency of the administrative appeal. If the exclusion is mandatory a threat to Medicaid Program or recipients is presumed. This determination shall be made following the Informal Hearing.

D. Failure to lodge a timely and adequate request for an administrative appeal will result in the imposition of any and all sanctions in the notice of the results of the informal hearing or the corrective action plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1649 (September 1999).

§4159. Right to Administrative Appeal and Review

A. Only the imposing of one or more sanctions can be appealed to the department's Bureau of Appeals.

1. The adversely effected party has the right to challenge the basis for the violation and the sanction imposed.

2. The adversely effected party must specifically state the basis for the appeal is and what actions are being challenged on appeal.

B. The following actions are not sanctions, even if listed as such in the notice of sanction or notice of the results of the informal hearing, and are not subject to appeal or review by the department's Bureau of Appeals:

1. referral to a state, federal or professional licensing authority;

2. referral to the Louisiana Attorney General's Medicaid Fraud Control Unit or any other authorized law enforcement or prosecutorial authority;

3. referral to governing boards, peer review groups or similar entities;

4. issuing a warning to a provider or provider-in-fact or other person through written notice or consultation;

5. require that the provider, or provider-in-fact, their affiliates and agents receive education and training in laws,

regulations, rules, policies, and procedures, including billing;

6. conducting prepayment or post-payment review;
7. place the provider's claims on manual review status before payment is made;
8. require that the provider or provider-in-fact receive prior authorization for any or all goods, services, or supplies under the Louisiana Medicaid program or one or more of its programs;
9. remove or restrict the provider's use of electronic billing;
10. any restrictions imposed as the result of a corrective action plan;
11. any restrictions agreed to by a provider, provider-in-fact, agent of the provider, or affiliate of the provider;
12. any terms or conditions contained in an arrangement to repay which has been agreed to by a provider, provider-in-fact, agent of the provider, or affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1649 (September 1999).

Subchapter L. Rewards for Fraud and Abuse Information

§4160. Tip Rewards

A. The Secretary may approve a reward of ten (10) percent of the actual monies recover from a person, with a maximum reward of two thousand (2,000.00) Dollars, to a person who submits information to the Secretary which results in a recovery under this regulation or the provisions of the Medical Assistance Program Integrity Law.

B. The Secretary shall grant rewards only to the extent monies are appropriated for that purpose from the Medical Assistance Programs Fraud Detection Fund. The approval of a reward is solely at the discretion of the Secretary. In making a determination of a reward, the Secretary shall consider the extent to which the tip information contributed to the investigation and recovery of monies. The person providing the information need not have requested a reward in order to be considered for an award by the Secretary.

C. No reward shall be made to any person if:

1. the information was previously known to the department or criminal investigators;
2. a person planned or participated in the action resulting in the investigation.
3. a person who is, or was at the time of the tip, excluded from participation in the Medical Assistance Program or subject to recovery under this regulation or the Medical Assistance Program Integrity Law.
4. a person who is or was a public employee or public official or person who was or is acting on behalf of the state if the person has or had a duty or obligation to report, investigate, or pursue allegations of wrongdoing or misconduct by health care providers or Medicaid recipients unless that individual has not been employed or had such duties and obligation for a period of two years prior to providing the information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4, R.S. 46:440.2 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1650 (September 1999).

Subchapter M. Miscellaneous

§4161. Mailing

Mailing refers to the sending of a hard copy via U.S. mail or commercial carrier. Sending via facsimile is also acceptable, so long as a hard copy is mailed. Delivery via hand is also acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1650 (September 1999).

§4163. Confidentiality

All contents of claim reviews and investigations conducted under this regulation shall remain confidential until a final administrative adjudication is entered. Prior to that, only the parties or their authorized agents and representatives may review the contents of the payment review and investigatory files, unless by law others are specifically authorized to have access to those files. These files may be released to law enforcement agencies, other governmental investigatory agencies, or specific individuals within the department who are authorized by the Director of BHSF and the Director of Program Integrity to have access to such information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1650 (September 1999).

§4165. Severability Clause

If any provision of this regulation is declared invalid or unenforceable for any reason by any court of this state or federal court of proper venue and jurisdiction, that provision shall not affect the validity of the entire regulation or other provisions thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1650 (September 1999).

§4167. Effect of Promulgation

This regulation, when promulgated, shall supersede any and all other departmental regulations that conflict with the provisions of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 46:437.4 and 46:437.1-46:440.3 (Medical Assistance Program Integrity Law).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1650 (September 1999).

David W. Hood
Secretary

9909#057

RULE

Department of Health and Hospitals Office of the Secretary Medical Disclosure Panel

Cardiology Procedures (LAC 48:I.2349)

As authorized by R.S. 40:1299.40.E, as enacted by Act 1093 of 1990 and later amended by Act 962 of 1992 and Act 633 of 1993, the Department of Health and Hospitals, Office of the Secretary, in consultation with the Louisiana Medical Disclosure Panel, is amending rules which require which risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and the Consent Form to be signed by the patient and physician before undergoing any such treatment or procedure.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Chapter 23. Informed Consent

§2349. Cardiology Procedures

- A. Arterial Line Insertion
 - 1. Swelling, pain, tenderness or bleeding at blood vessel entrance by catheter or needle
 - 2. Injury to artery or vein entered or studied
 - 3. Decrease in blood flow to area supplied by the artery
 - 4. Nerve damage
 - 5. Loss or loss of function of an arm or leg supplied by the artery
 - 6. Possible need for surgery due to complications
- B. Cardiac Catheterization
 - 1. Death
 - 2. Myocardial infarction (cardiac arrest/heart attack)
 - 3. Cerebrovascular complication (stroke)
 - 4. Injury to artery or vein entered or studied
 - 5. Local, vascular complication (groin or arm)
 - 6. Bleeding, thrombosis, distal embolization, pseudoaneurysm, arteriovenous (AV) fistula (abnormal communication between an artery and a vein), hematomas, nerve damage, injury to the artery, delayed hemorrhage
 - 7. Loss or loss of function of an arm or leg
 - 8. Perforation of heart or great vessels
 - 9. Vasovagal reaction (hypotension, slow heart rate)
 - 10. Arrhythmias and conduction disturbances (irregular heart beat)
 - 11. Kidney failure (partial or complete; may necessitate hemodialysis)
 - 12. Contrast related anaphylactoid reactions (allergies)
 - 13. Congestive heart failure
 - 14. Pulmonary embolism
 - 15. Bleeding requiring blood transfusion or surgery
 - 16. Possible need for surgery due to complications
 - 17. Scar formation at the site of entrance into the artery
- C. General Angiography
 - 1. Contrast related anaphylactoid reactions (allergies)
 - 2. Injury to artery or vein entered or studied
 - 3. Loss or loss of function of an arm or leg

- 4. Kidney failure (partial or complete; may necessitate hemodialysis)
- D. Percutaneous Coronary Angioplasty / Stent Placement
 - 1. Death
 - 2. Brain Damage (stroke)
 - 3. Quadriplegia
 - 4. Paraplegia
 - 5. Injury to artery or vein entered or studied
 - 6. Loss or loss of function of an arm or leg
 - 7. Disfigurement (Including scars)
 - 8. Kidney failure (partial or complete; may necessitate hemodialysis)
 - 9. Loss of bowel and/or bladder function
 - 10. Myocardial infarction (cardiac arrest/heart attack)
 - 11. Restenosis (subsequent recurrence of narrowing of blood vessel)
 - 12. Possible need for surgery due to complications
 - 13. Contrast related anaphylactoid reactions (allergies)
 - 14. Hypotension (abnormally low blood pressure)
 - 15. Arrhythmias and conduction disturbances (irregular heart beat)
 - 16. Bleeding requiring blood transfusion or surgery
 - 17. Pericardial tamponade (compression of the heart due to accumulation of blood or fluid in the sac around the heart)
 - 18. Stent thrombosis
 - 19. Displacement of stent or instrument requiring retrieval
- E. Thrombolysis—Regional or Systemic
 - 1. Death
 - 2. Brain damage (stroke)
 - 3. Injury to artery or vein entered or studied
 - 4. Loss or loss of function of an arm or leg
 - 5. Bleeding requiring blood transfusion or surgery
 - 6. Hematoma
 - 7. Arrhythmias and conduction disturbances (irregular heart beat)
 - 8. Hypotension (abnormally low blood pressure)
 - 9. Contrast related anaphylactoid reactions (allergies)
- F. Coronary Intervention (Stents and Atherectomy)/Directional Coronary Arthrectomy (DCA), Transluminal Extraction Catheter Arthrectomy (TEC) and Rotational Atherectomy
 - 1. Death
 - 2. Brain Damage (stroke)
 - 3. Quadriplegia
 - 4. Paraplegia
 - 5. Injury to artery or vein entered or studied
 - 6. Loss or loss of function of an arm or leg
 - 7. Disfigurement (including scars)
 - 8. Kidney failure (partial or complete; may necessitate hemodialysis)
 - 9. Loss of bowel and/or bladder function
 - 10. Myocardial infarction (cardiac arrest/heart attack)
 - 11. Restenosis (subsequent recurrence of narrowing of blood vessel)
 - 12. Possible need for surgery due to complications
 - 13. Contrast related anaphylactoid reactions (allergies)
 - 14. Hypotension (abnormally low blood pressure)
 - 15. Arrhythmias and conduction disturbances (irregular heart beat)

16. Bleeding requiring blood transfusion or surgery
17. Pericardial tamponade (compression of the heart due to accumulation of blood or fluid in the sac around the heart)
18. Side branch occlusion
19. Severe bradycardia (severe slowing of the heart)
20. Stent thrombosis
21. Displacement of stent or instrument requiring retrieval
22. Perforation of heart or great vessels
23. Coronary vasospasm related to the instrument used
- G. Electrophysiologic Study Including Programmed Electrical Stimulation (EPS) (Stimulating the heart to search for abnormal heart beat)
 1. Perforation of heart or great vessels
 2. Pericardial tamponade (compression of the heart due to accumulation of blood or fluid in the sac around the heart)
 3. Bleeding requiring blood transfusion or surgery
 4. Injury to artery or vein entered or studied
 5. Arrhythmia and conduction disturbances (irregular heart beat)
 6. Pneumothorax (collapse of lung)
 7. Death
 8. Myocardial infarction (cardiac arrest/heart attack)
 9. Bleeding, thrombosis, distal embolization, pseudoaneurysm, arteriovenous (AV) fistula (abnormal communication between an artery and a vein), hematomas, nerve damage, injury to the artery, delayed hemorrhage
 10. Thrombophlebitis (inflammation of the vein)
 11. Pulmonary embolism (blood clot from pelvis or legs that moves to lungs)
 12. Brain damage (stroke)
 13. Loss or loss of function of a leg or arm
 14. Electrical burns to the chest
- H. Radiofrequency Catheter Ablation
 1. Perforation of heart or great vessels
 2. Injury to artery or vein entered or studied
 3. Pericardial tamponade (compression of the heart due to accumulation of blood or fluid in the sac around the heart)
 4. Bleeding requiring blood transfusion or surgery
 5. Pneumothorax (collapse of lung)
 6. Death
 7. Myocardial infarction (cardiac arrest/heart attack)
 8. Arrhythmia and conduction disturbances (irregular heartbeat)
 9. Bleeding, thrombosis, distal embolization, pseudoaneurysm, arteriovenous (AV) fistula (abnormal communication between an artery and a vein), hematomas, nerve damage, injury to the artery, delayed hemorrhage
 10. Thrombophlebitis (inflammation of the vein)
 11. Pulmonary embolism (blood clot from pelvis or legs that moves to lungs)
 12. Brain damage (stroke)
 13. Loss or loss of function of a leg or arm
 14. Electrical burns to the chest
 15. Possible need for surgery due to complications
 16. Damage to heart valve
 17. Interruption of the normal electrical conduction system of the heart, requiring permanent pacemaker placement
18. Recurrence of arrhythmia after initially successful ablation
 - I. Transesophageal Echocardiography
 1. Arrhythmias and conduction disturbances (irregular heartbeat)
 2. Myocardial infarction (cardiac arrest/heart attack)
 3. Aspiration pneumonia
 4. Respiratory failure which may require ventilation
 5. Trauma to vocal cords which may result in temporary or permanent vocal cord injury that may require surgical repair
 6. Injury to artery or vein entered or studied
 7. Injury to teeth, gums, or throat, esophageal bleeding, laceration or perforation which may require surgical repair
 - J. Exercise Treadmill and Bicycle Stress Testing
 1. Death
 2. Myocardial infarction (cardiac arrest/heart attack)
 3. Arrhythmias and conduction disturbances (irregular heartbeat)
 4. Prolonged angina (chest pain)
 5. Hypotension/Hypertension (abnormally low blood pressure/high blood pressure)
 6. Brain damage (stroke)
 7. Syncope (fainting)
 8. Musculoskeletal injuries (injuries to bones, muscles, and/or joints)
 - K. Dobutamine Stress Testing
 1. Death
 2. Myocardial infarction (cardiac arrest/heart attack)
 3. Prolonged angina (chest pain)
 4. Hypotension/Hypertension (abnormally low blood pressure/high blood pressure)
 5. Brain damage (stroke)
 6. Arrhythmias and conduction disturbances (irregular heartbeat)
 7. Syncope (fainting)
 8. Injury to artery or vein entered or studied
 - L. Automatic Implantable Cardioverter Defibrillator Implantation (Permanent Pacemaker)
 1. Bleeding requiring blood transfusion or surgery
 2. Hemorrhage (bleeding) into the lungs, the pericardium (sac which surrounds the heart), and the chest cavity.
 3. Pericardial tamponade (compression of the heart due to accumulation of blood or fluid in the sac around the heart)
 4. Myocardial infarction (cardiac arrest/heart attack)
 5. Brain damage (stroke)
 6. Pneumothorax (collapse of lung)
 7. Perforation of heart or great vessels
 8. Injury to artery or vein entered or studied
 9. Possible need for surgery due to complications
 10. Arrhythmia and conduction disturbances (irregular heart beat)
 11. Damage to trachea (windpipe) and/or pharynx (throat)
 12. Trauma to vocal cords which may result in temporary or permanent vocal cord injury that may require surgical repair
 - M. Pericardiocentesis
 1. Perforation of heart or great vessels

2. Damage to coronary arteries including laceration
3. Possible need for surgery due to complications
4. Arrhythmia or conduction disturbances (irregular heart beat)

5. Myocardial infarction (cardiac arrest/heart attack)
6. Pneumothorax (collapse of lung)
7. Death
8. Pericardial tamponade (compression of the heart due to accumulation of blood or fluid in the sac around the heart)

N. Electrical Cardioversion

1. Electrical burns to the chest
2. Myocardial infarction (cardiac arrest/heart attack)
3. Embolic event to any portion of the body (e.g., brain, bowel, kidney, eyes, arm, leg) which may lead to loss of, or loss of function of, affected portion of body
4. Injury to artery or vein entered or studied
5. Death
6. Brain damage (stroke)
7. Arrhythmia and conduction disturbances (irregular heartbeat)

O. Endomyocardial Biopsy

1. Injury to artery or vein entered or studied
2. Hemorrhage (bleeding) into the lungs, the pericardium sac which surrounds the heart and the chest cavity
3. Pericardial tamponade (compression of the heart due to accumulation of blood in the sac around the heart)
4. Myocardial infarction (cardiac arrest/heart attack)
5. Arrhythmias and conduction disturbances (irregular heartbeat)
6. Pneumothorax (collapse of lung)
7. Perforation of heart or great vessels
8. Possible need for surgery due to complications
9. Damage to trachea (windpipe) and/or pharynx (throat)
10. Trauma to vocal cords which may result in temporary or permanent vocal cord injury that may require surgical repair
11. Displacement of stent or instrument requiring retrieval

12. Brain damage (stroke)
13. Bleeding requiring blood transfusion or surgery

P. Temporary Pacemaker Placement

1. Injury to artery or vein entered or studied
2. Hemorrhage (bleeding) into the lungs, the pericardium (sac which surrounds the heart), the chest cavity and elsewhere
3. Pericardial tamponade (compression of the heart due to accumulation of blood or fluid in the sac around the heart)
4. Brain damage (stroke)
5. Myocardial infarction (cardiac arrest/heart attack)
6. Pneumothorax (collapse of lung)
7. Perforation of heart or great vessels
8. Possible need for surgery due to complications
9. Arrhythmia and conduction disturbances (irregular heartbeat)

10. Trauma to vocal cords which may result in temporary or permanent vocal cord injury that may require surgical repair

11. Displacement of stent or instrument requiring retrieval

Q. Pulmonary Angiogram and/or Right Heart Catheterization

1. Injury to artery or vein entered or studied
2. Hemorrhage (bleeding) into the lungs, the pericardium (sac which surrounds the heart) and the chest cavity
3. Brain damage (stroke)
4. Pneumothorax (collapse of lung)
5. Myocardial infarction (cardiac arrest/heart attack)
6. Perforation of heart or great vessels
7. Possible need for surgery due to complications
8. Arrhythmia and conduction disturbances (irregular heart beat)
9. Shock
10. Infusion of fluid into the chest cavity, lungs, and pericardium
11. Contrast related anaphylactoid reactions (allergies)
12. Death
13. Aggravation of the condition that necessitated the procedure
14. Bleeding requiring transfusion or surgery
15. Kidney failure (partial or complete; may necessitate hemodialysis)
16. Respiratory complications (including need for prolonged ventilator (mechanical) support)
17. Loss or loss of function of an arm or leg

R. Cardiac Rehabilitation

1. Death
2. Arrhythmias and conduction disturbances (irregular heartbeat)
3. Myocardial infarction (cardiac arrest/heart attack)
4. Prolonged angina (chest pain)
5. Hypotension/Hypertension (low blood pressure/high blood pressure)
6. Brain damage (stroke)
7. Syncope (fainting)
8. Musculoskeletal injuries (injuries to bones, muscles and/or joints)
9. Drowning (if involving water activities)

S. Head up Tilt Test (Including vasoactive drugs)

1. Syncope (fainting)
2. Seizure (convulsions)
3. Hypotension/Hypertension (low blood pressure/high blood pressure)
4. Arrhythmia and conduction disturbances (irregular heartbeat)
5. Myocardial infarction (cardiac arrest/heart attack)
6. Brain damage (stroke)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40.E et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Medical Disclosure Panel, LR 18:1391 (April 1999), amended LR 25:1651 (September 1999).

David W. Hood
Secretary

9909#048

RULE
Department of Social Services
Office of Community Services

Child Protection Investigation Report Acceptance
(LAC 67:V.1301)

The Department of Social Services, Office of Community Services, is amending the Rule entitled "Child Protection Investigation Report Acceptance" published in the Louisiana Register Vol. 19, No. 4, April 20, 1993, page 503.

This rule regards the acceptance of reports of child abuse and/or neglect for investigation by the Office of Community Services. The Office of Community Services will now accept for investigation all reports of suspected child abuse/neglect related deaths regardless of whether there are surviving children in the child victim's home.

Title 67
SOCIAL SERVICES
Part V. Office of Community Services
Subpart 3. Child Protective Services

Chapter 13. Intake

§1301. Child Protection Investigation Report Acceptance

A. - F. ...

G.2.a. Repealed.

b. - m. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Article 612.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:387 (April 1991), amended LR 18:1246 (November 1992), repromulgated LR 19:165 (February 1993), LR 19:503 (April 1993), amended LR 25:1654 (September 1999).

Madlyn Bagneris
Secretary

9909#082

RULE

Department of Transportation and Development
Office of the Secretary
Crescent City Connection Division

Bridge Toll—Crescent City Connection Bridge No. 2
Transit Lanes (LAC 70:I.515)

The Department of Transportation and Development, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 70:I.515 to allow access to the transit lanes on the Crescent City Connection Bridge No. 2, New Orleans, Louisiana, by motorcycles.

The Rule Amendment is necessary to implement recent changes in federal law.

Title 70
TRANSPORTATION AND DEVELOPMENT
Part I. Office of the General Counsel

Chapter 5. Tolls

§515. Crescent City Connection Transit Lanes

A. Intent. It is the intent of this Rule to efficiently maximize the use of the vehicular traffic lanes of the Crescent City Connection for the increased mobility of individuals and goods across the Mississippi River at New Orleans, to encourage and promote mass transit and transportation such as the use of carpools and other high occupancy vehicle (HOV) use, while minimizing transportation related fuel consumption and air pollution, and to provide for one-way reversible traffic flow on the transit lanes of the Crescent City Connection Bridge No. 2, and the establishment of the requirements for vehicles operating on the transit lanes.

B. Hours of Operation

1. The transit lanes of the Crescent City Connection Bridge No. 2 will be open for use by eligible vehicles in accordance with the control signals posted by the Crescent City Connection Division through the Crescent City Connection Police.

2. Generally, the transit lanes of the Crescent City Connection Bridge No. 2 will be open for use by eligible vehicles with the traffic proceeding to the Eastbank in the morning and with the traffic proceeding to the Westbank in the afternoon.

3. However, the directional traffic flow of the transit lanes may be reconfigured by the Crescent City Connection Division in its sole discretion at such times and in such directions in order to protect the public safety during emergencies and to accommodate the public interest during special events.

C. Ineligible Vehicles. The objective of the transit lanes is to provide a free flowing facility for mass transit, high occupancy vehicles, and other eligible vehicles. Accordingly, the following vehicles are prohibited from using the transit lanes during the hours of operation even though they may satisfy the vehicle occupancy requirements:

1. trucks with more than two axles or having a gross weight capacity of one ton or more;
2. vehicles towing trailers;
3. parades;
4. funeral processions;
5. pedestrians;
6. bicycles; and
7. non-motorized vehicles.

D. Eligible Vehicles. The following vehicles are eligible to use the transit lanes during the hours of operation:

1. all public mass transit vehicles, including Regional Transit Authority buses and Jefferson Transit System buses;
2. school buses;
3. commercial passenger vehicles manufactured to carry seven (7) or more passengers and pre-qualified to use the transit lanes ("HOV-7");

4. other motor vehicles carrying more than a specified number of persons and properly displaying a valid toll tag issued by the Crescent City Connection Division ("HOV-2");

5. motorcycles properly displaying a valid toll tag issued by the Crescent City Connection Division ("Authorized Motorcycles"); and

E. Vehicle Occupancy Requirements. The minimum occupancy requirement for vehicles designated as HOV-2 shall be two or more persons during all hours of operation. The minimum occupancy requirement for vehicles designated as HOV-7 shall continue to be seven or more persons during all hours of operation. There are no minimum occupancy requirements for vehicles designated as Authorized Motorcycles during all hours of operation.

F. Qualifications

1. Eligible vehicles must be prequalified to use the transit lanes as follows.

a. Public Mass Transit Vehicles. All public mass transit vehicles shall continue to be pre-qualified to access the transit lanes toll-free during the hours of operation.

b. School Buses. All school buses shall continue to be authorized to access the transit lanes toll-free during the hours of operation upon compliance with the school buses exemption provided for under LAC 70:I.509(E).

c. HOV-7+. Eligible vehicles meeting the minimum occupancy requirement of seven or more persons must register with the Crescent City Connection Division by providing proof of:

i. current vehicle registration with the State of Louisiana or other jurisdiction;

ii. current and valid Driver's License; and

iii. current and fully-paid liability insurance coverage.

d. HOV-2+. Eligible vehicles meeting the minimum occupancy requirement of two or more persons and displaying a valid toll tag issued by the Crescent City Connection Division.

e. Authorized Motorcycles. Motorcycles displaying a valid toll tag issued by the Crescent City Connection Division.

2. Toll tags on HOV-2 vehicles, and Authorized Motorcycles, must be conspicuously displayed in accordance with the instructions of the Crescent City Connection Division at all times while operating on the transit lanes.

G. Enforcement. During all hours of operation, the Crescent Connection Police shall supervise and actively control access to the transit lanes, and enforce vehicle eligibility, minimum occupancy requirements and permit emblem display.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq., and R.S. 48:1101.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, LR 24:960 (May 1998), amended LR 25:1654 (September 1999).

Alan LeVasseur
Executive Director

9909#050

RULE

**Department of the Treasury
Board of Trustees of the Teachers'
Retirement System of Louisiana**

Management of DROP Accounts
(LAC 58:III.503)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of Teachers' Retirement System of Louisiana approved an amendment to policies governing the Management of DROP Accounts, LAC 58:III.503 as follows.

Title 58

RETIREMENT

Part III. Teachers' Retirement System

Chapter 5. Deferred Retirement Option Plan

§503. Management of DROP Accounts

A. - B.2. ...

3. Interest earnings will begin accruing the day after termination of DROP participation and will be compounded daily. Interest will be deposited to DROP accounts once a year when the actuarially realized rate of return is approved by the Public Retirement Systems' Actuarial Committee. Interest deposits will reflect the interest earned on the account during the previous fiscal year and will be entered on quarterly statements issued after this approval is obtained. No interest will accrue on the DROP account after the date the account has been liquidated. No interest is paid on an interest only balance. Liquidated means all funds have been withdrawn from the DROP account except for the possible final interest earnings due but not yet posted.

B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786 - 791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:500 (March 1998), amended LR 25:1655 (September 1999).

James P. Hadley, Jr.
Director

9909#030

RULE

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

Deer Management Assistance Program
(LAC 76:V.111)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend rules and regulations governing participation in the deer management assistance program.

**Title 76
WILDLIFE AND FISHERIES**

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§111. Rules and Regulations for Participation in the Deer Management Assistance Program

A. The following rules and regulations shall govern the Deer Management Assistance Program

1. Application Procedure

a. Application for enrollment in Deer Management Assistance Program (DMAP) must be submitted to the Department of Wildlife and Fisheries annually by September 1.

b. Each application must be accompanied by a legal description of lands to be enrolled and a map of the property. This information will remain on file in the appropriate regional office. The applicant must have under lease or otherwise control a minimum of 500 acres of contiguous deer habitat of which up to 250 acres may be agricultural lands, provided the remainder is in forest and/or marsh. Private lands within Wildlife Management Area boundaries shall be enrolled in DMAP regardless of size.

c. Each cooperator will be assessed a \$25 enrollment fee and \$.05/acre for participation in the program. DMAP fees must be paid prior to October 1.

d. An agreement must be completed and signed by the official representative of the cooperator and submitted to the appropriate regional wildlife office for his approval. This agreement must be completed and signed annually.

e. Boundaries of lands enrolled in DMAP shall be clearly marked and posted with DMAP signs in compliance with R.S. 56:110 and LAC 76:V.109. DMAP signs shall be removed if the land is no longer enrolled in DMAP.

f. By enrolling in the DMAP, cooperators agree to allow Department personnel access to their lands for management surveys, investigation of violations and other inspections deemed appropriate by the Department. The person listed on the DMAP application as the contact person will serve as the liaison between the DMAP Cooperator and the Department.

g. Each cooperator that enrolls in DMAP is strongly encouraged to provide keys or lock combinations annually to the Enforcement Division of the Department of Wildlife and Fisheries for access to main entrances of the DMAP property. Provision of keys is voluntary; however, the cooperator's compliance will ensure that DMAP enrolled properties will be properly and regularly patrolled.

2. Tags

a. A fixed number of special tags will be provided by the Department to each cooperator in DMAP to affix to deer taken as authorized by the program. These tags shall be used only on DMAP lands for which the tags were issued.

b. All antlerless deer taken shall be tagged, including those taken during archery season, muzzleloader, and on either-sex days of gun season.

c. Each hunter must have a tag in his possession while hunting on DMAP land in order to harvest an antlerless deer. The tag shall be attached through the hock in

such a manner that it cannot be removed before the deer is transported. The DMAP tag will remain with the deer so long as the deer is kept in the camp or field, is in route to the domicile of its possessor, or until it has been stored at the domicile of its possessor, or divided at a cold storage facility and has become identifiable as food rather than as wild game. The DMAP number shall be recorded on the possession tag of the deer or any part of the animal when divided and properly tagged.

d. All unused tags shall be returned by March 1 to the regional wildlife office which issued the tags.

3. Records

a. Cooperators are responsible for keeping accurate records on forms provided by the Department for all deer harvested on lands enrolled in the program. Mandatory information includes tag number, sex of deer, date of kill and name of person taking the deer. Documentation of harvested deer shall be kept daily by the Cooperator. Additional information may be requested depending on management goals of the cooperator.

b. Information on deer harvested shall be submitted by March 1 to the regional wildlife office handling the particular cooperator.

c. The Contact person shall provide this documentation of harvested deer to the Department upon request. Cooperators who do not have a field camp will be given 48 hours to provide this requested documentation.

B. Suspension and cancellation of DMAP Cooperators

1. Failure of the cooperator to follow these rules and regulations may result in suspension and cancellation of the program on those lands involved. Failure to make a good faith attempt to follow harvest recommendations may also result in suspension and cancellation of the program.

a. Suspension of Cooperator from DMAP—Suspension of the Cooperator from DMAP, including forfeiture of unused tags, will occur immediately for any misuse of tags, failure to tag any antlerless deer, or failure to submit records to the Department for examination in a timely fashion. Suspension of the Cooperator, including forfeiture of unused tags, may also occur immediately if other DMAP rules or wildlife regulations are violated. Upon suspension of the Cooperator from DMAP, the Contact Person may request an administrative hearing within 10 working days to appeal said suspension. Cooperation by the DMAP Cooperator with the investigation of the violation will be taken into account by the Department when considering cancellation of the program following a suspension for any of the above listed reasons. The Cooperator may be allowed to continue with the program on a probational status if, in the judgement of the Department, the facts relevant to a suspension do not warrant cancellation.

b. Cancellation of Cooperator from DMAP—Cancellation of a cooperator from DMAP may occur following a guilty plea or conviction for a DMAP rule or regulation violation and the Cooperator may not be allowed to participate in DMAP for one year following the cancellation for such guilty pleas or conviction. Upon

cancellation of the Cooperator from DMAP, the Contact Person may request an administrative hearing within 10 working days to appeal said cancellation.

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 17:204 (February 1991), amended LR 25:1656 (September 1999).

Bill A. Busbice, Jr.
Chairman

9909#023

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Isles Dernieres Barrier Islands Refuge
(LAC 76:III.321 and 331)

The Wildlife and Fisheries Commission does hereby adopt regulations for the Isles of Dernieres Barrier Islands Refuge.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries Chapter 3. Particular Game and Fish Preserves and Commission

§321. Terrebonne Barrier Islands Refuge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(18), R.S. 56:761 and R.S. 56:785.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19:910 (July 1993), repealed LR 25:

§331. Isles Dernieres Barrier Islands Refuge

A. Regulations for Isles Dernieres Barrier Islands Refuge

1. Regulations for Wine Island, East Island, Whiskey Island, and Raccoon Island

a. Public access by any means to the exposed land areas, wetlands and interior waterways of these islands is prohibited. Requests to access exposed land areas, wetlands and interior waterways shall be considered on a case-by-case basis and may be permitted by the Secretary or his designee in the interest of conducting research on fauna and flora, of advancing educational pursuits related to barrier islands, or of planning and implementing island restoration projects.

b. Disturbing, injuring, collecting, or attempting to disturb, injure, or collect any flora, fauna, or other property is prohibited, unless expressly permitted in writing by the Secretary or his designee for the uses provided for in Paragraph 1.a. above.

c. Boat traffic is allowed adjacent to the islands in the open waters of the Gulf and bays; however, boat traffic is prohibited in waterways extending into the interior of the islands or within any land-locked open waters or wetlands of the islands.

d. Fishing from boats along the shore and wade fishing in the surf areas of the islands is allowed.

e. Littering on the islands or in Louisiana waters or wetlands is prohibited.

f. Proposals to conduct oil and gas activities, including seismic exploration, shall be considered on a case-by-case basis and may be permitted by the Secretary or his

designee, consistent with provisions of the Act of Donation executed by the Louisiana Land and Exploration Company on July 24, 1997.

2. Regulations for Trinity Island

a. Public access is allowed in a designated public use area. An area approximately 3,000 linear feet by 500 linear feet is designated as a public use area, the boundaries of which will be marked and maintained by the Department. The designated public use area shall extend westward from the western boundary of the servitude area reserved by Louisiana Land and Exploration Company in the Act of Donation a distance of approximately 3,000 linear feet and northward from the southern shoreline within this area by a distance of approximately 500 linear feet. Public recreation such as bird-watching, picnicking, fishing and overnight camping is allowed in this area. Travel on or across this area shall be limited to foot or bicycle traffic only. No use of all-terrain vehicles or other vehicles powered by internal combustion engines or electric motors shall be allowed.

b. Public access to all exposed land areas of Trinity Island, other than the public use area, is prohibited. Requests to access these exposed land areas shall be considered on a case-by-case basis and may be permitted by the Secretary or his designee in the interest of conducting research on fauna and flora, of advancing educational pursuits related to barrier islands or of planning and implementing island restoration projects.

c. Disturbing, injuring, collecting, or attempting to disturb, injure, or collect any flora, fauna, or other property is prohibited, unless expressly permitted in writing by the Secretary or his designee for the uses provided for in Paragraph 2.b. above.

d. Any member of the public utilizing the designated public use area shall be required to have a portable waste disposal container to collect all human wastes and to remove same upon leaving the island. Discharge of human wastes, including that within the disposal container, onto the island or into Louisiana waters or wetlands is prohibited.

e. Littering on the island or in Louisiana waters or wetlands is prohibited.

f. Carrying, possessing, or discharging firearms, fireworks, or explosives in the designated public use area is prohibited.

g. Boat traffic is allowed adjacent to the island in open waters of the Gulf and bays and within the man-made canal commonly known as California Canal for its entire length to its terminus at the bulkhead on the western end of the canal. No boat traffic is allowed in other man-made or natural waterways extending into the interior of the island or in any land-locked open waters or wetlands of the island.

h. Fishing from boats or wade fishing in the surf areas of the island is allowed.

i. Houseboats may be moored in designated areas along the California Canal. An annual permit shall be required to moor a houseboat in the canal. The required permit may be obtained from the Department of Wildlife and Fisheries New Iberia Office.

j. Proposals to conduct oil and gas activities, including seismic exploration, shall be considered on a case-by-case basis and may be permitted by the Secretary or his designee, consistent with provisions of the Act of Donation

executed by the Louisiana Land and Exploration Company on July 24, 1997.

B. Violation of any provision of these regulations shall be considered a Class Two Violation, as described in R.S. 56:115(D), 56:764, and 56:787.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(18), R.S. 56:109, and R.S. 56:781 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1657 (September 1999).

Bill A. Busbice, Jr.
Chairman

9909#028

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Economic Development Award Program (EDAP) (LAC 13:III.Chapter 1)

In accordance with R.S. 51:2341, notice is hereby given that the Department of Economic Development, Office of the Secretary, proposes to amend rules and regulations in LAC 13:III. Chapter 1 for the Economic Development Award Program.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 1. Economic Development Award Program (EDAP)

§101. Purpose

The purpose of the program is to finance publicly owned infrastructure for industrial or business development projects that promote economic development and that require state assistance for basic infrastructure development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§103. Definitions

Applicant—the sponsoring entity requesting financial assistance from DED under this program.

Award—funding approved under this program for eligible applicants.

Awardee—an applicant [and/or company(ies)] receiving an award under this program.

Basic Infrastructure—refers to the construction, improvement or expansion of roadways, parking facilities, equipment, bridges, railroad spurs, water works, sewerage, buildings, ports, waterways and publicly owned or regulated utilities.

Company—the business enterprise for which the project is being undertaken.

DED—Louisiana Department of Economic Development.

Program—the Economic Development Award Program.

Project—an expansion, improvement and/or provision of basic infrastructure that promotes economic development, for which DED assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, or increase its capital investment in Louisiana.

Secretary—the Secretary of the Department of Economic Development.

Sponsoring Entity—the public or quasi-public entity responsible for performing and/or overseeing

implementation of the project and supervising the company's compliance with the terms and conditions of the award agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§105. General Principles

The following principles will direct the administration of the Economic Development Award Program.

1. Awards are not to be construed as an entitlement for companies locating or located in Louisiana.

2. An award must reasonably be expected to be a significant factor in a company's location, investment and/or expansion decisions.

3. Awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities.

4. The retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.

5. The anticipated economic benefits to the state will be considered in making the award.

6. Appropriate cost sharing among project beneficiaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§107. Eligibility

A. An eligible applicant for the Grant Award must be one of the following:

1. a public or quasi-public state entity; or
2. a political subdivision of the state.

B. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if company has another contract with the Department of Economic Development in which the company is in default and/or is not in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December

1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§109. Criteria

A. Job Creation/Retention

1. Projects must create or retain at least ten (10) permanent jobs in Louisiana.

2. Number of jobs to be retained and/or created as stated in the application will be strictly adhered to and will be made an integral part of the contract.

B. Preference will be given to projects for industries identified by the state as target industries, and to projects located in areas of the state with high unemployment levels.

C. Preference will be given to projects intended to expand, improve or provide basic infrastructure supporting mixed use by the company and the surrounding community.

D. Companies must be in full compliance with all state and federal laws.

E. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the US Census Bureau) within Louisiana, except when company gives sufficient evidence that it is otherwise likely to relocate out of Louisiana.

F. The minimum award request size shall be \$25,000.

G. Preference will be given for wages substantially above the prevailing regional wage.

H. If a company does not begin construction of the project within 365 calendar days after application approval, the Secretary, at his discretion, may cancel funding for the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§111. Application Procedure

The sponsoring entity must submit an application on a form provided by DED which shall contain, but not be limited to, the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. a description of the project along with the factors creating the need, including construction, operation and maintenance plans, and a timetable for the project's completion;

3. evidence of the number, types and compensation levels of jobs to be created or retained by the project;

4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§113. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant,

other divisions of the Department of Economic Development, and other state agencies as needed in order to:

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

2. validate the information presented;

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

B. An economic cost-benefit analysis of the project, including an analysis of the net economic and fiscal benefits to the state and local communities, will be prepared by DED.

C.1. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the Secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

a. the Secretary of the Department of Economic Development;

b. the Governor; and

c. the Joint Legislative Committee on the Budget.

2. The Secretary can invoke emergency procedures and approve an application under the following conditions: the company documents in writing to the Secretary of Economic Development with copies to the Governor and Chairman of the Joint Legislative Committee on the Budget that a serious time constraint exists and that a new plant, expansion or closure decision is to be made in fewer than 21 days or more than 31 days before the next scheduled meeting of the Joint Legislative Committee on the Budget.

D. The final 15 percent of the grant amount will not be paid until DED staff or its designee inspects the project to assure that all work in the EDAP contract has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§115. General Award Provisions

A. Award Agreement. A contract will be executed between DED, the sponsoring entity and the company. The agreement will specify the performance objectives expected of the compan(ies) and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for investment and job creation. Under the agreement, the sponsoring entity will oversee the progress of the project. DED will disburse funds to the sponsoring entity in a manner determined by DED.

B. Funding

1. Eligible project costs may include, but not be limited to, the following:

a. engineering and architectural expenses;

b. site acquisition;

c. site preparation;

d. construction expenses;

e. building materials;

f. capital equipment.

2. Project costs ineligible for award funds include, but are not limited to:

- a. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- b. company moving expenses;
- c. expenses already approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- d. improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;
- e. refinancing of existing debt, public or private;
- f. furniture, fixtures, computers, consumables, transportation equipment, rolling stock or equipment with useful life of less than seven (7) years.

C. Amount of Award

1. The portion of the total project costs financed by the award may not exceed:

- a. ninety (90) percent for projects located in parishes with per capita personal income below the median for all parishes; or
- b. seventy-five (75) percent for projects in parishes with unemployment rates above the statewide average; or
- c. fifty (50) percent for all other projects.
- d. Other state funds cannot be used as the match for EDAP funds.

2. The award amount shall not exceed twenty-five (25) percent of the total funds available to the program during a fiscal year.

3. The Secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

D. Conditions for Disbursement of Funds

1. Grant award funds will be available to the sponsoring entity on a reimbursement basis following submission of required documentation to DED from the sponsoring entity.

2. Program Funding Source

a. If the program is funded through the state's general appropriations bill, only funds spent on the project after the Secretary's approval will be considered eligible for reimbursement, contingent on the final approval by the Governor and the Joint Legislative Committee on the Budget.

b. If the program is funded through a capital outlay bill, eligible expenses cannot be incurred until a cooperative endeavor agreement (contract) has been agreed upon, signed and executed.

3. Award funds will not be available for disbursement until:

- a. DED receives signed commitments by the project's other financing sources (public and private);
- b. DED receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed or obtained;
- c. all other closing conditions specified in the award agreement have been satisfied.

E. Compliance Requirements

1. Companies and sponsoring entities shall be required to submit progress reports, describing the progress towards the performance objectives specified in the award agreement. Progress reports by sponsoring entity shall include a review and certification of company's hiring records and the extent of company's compliance with contract employment commitments. Further, sponsoring entity shall oversee the timely submission of reporting requirements of the company to DED.

2. In the event a company or sponsoring entity fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

§117. Public Safety Provision

The Secretary may approve a request for funding for less than \$25,000 if the request involves the protection and enhancement of the safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:

The proposed rules are to become effective on August 1, 1999 as an emergency rule and will remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

Interested persons may comment on the proposed rules in writing until September 10, 1999 to Randy Rogers, National Marketing Director, Department of Economic Development, Post Office Box 94185, Baton Rouge, La 70804-9185 or 101 France Street, Suite 202, Baton Rouge, LA 70802.

Family Impact Statement

The adoption and implementation of these rules will have the following impact on the formation, stability and autonomy of the family:

1. They will positively impact the stability of the family by providing more job opportunities as a result of the improved economic conditions produced as a result of this program.

2. They will not affect the authority and rights of parents regarding the education and supervision of their children.

3. They will positively affect on the functioning of the family by providing additional job opportunities.

4. They will have a positive impact on the family earnings and family budget by providing additional job opportunities to the unemployed and allowing those employed in lower paying jobs to obtain higher paying jobs.

5. They will not affect the behavior and personal responsibility of children.

6. They will provide clarification to the family and local government on how the program works.

Kevin P. Reilly, Sr.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Economic Development Award Program (EDAP)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Pursuant to Louisiana R.S. 51:2341, et seq., this program is administered by the Department of Economic Development (DED), Office of the Secretary. No net changes in cost are anticipated. An additional staff member will be added within the National Marketing Division who will monitor the entities contracting with DED, assist in administering the program and in providing the economic impact analysis.

The Department of Economic Development via this amendment has made the following changes:

A. The definition of "Sponsoring Entity" has been revised to clarify its meaning.

B. Language was included under "criteria" that provided that employment numbers stated on the application will be strictly adhered to.

C. Language was added under "Disbursement of Funds" to indicate when eligible expenses can be incurred based on the source of funding.

D. Language was added under "Compliance Requirements" that specifies what the sponsoring entity's progress report must include and clarified the duties of the sponsoring entity.

E. Language was added to allow monitoring by DED and for the use of up to 5% of this year's appropriation, up to \$100,000.00 to fund monitoring costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collection is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This change in the program rules is expected to expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This program's goal is to reduce unemployment and the risk of future unemployment by assisting businesses through incentives. This change in the Rules was made in an attempt to

incorporate changes thereto that will expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program.

Kevin P. Reilly, Sr.
Secretary
9909#054

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Port Development Program (LAC 13:III.Chapter 5)

In accordance with R.S. 51:2341, notice is hereby given that the Department of Economic Development, Office of the Secretary, proposes to promulgate rules and regulations in LAC 13:III.Chapter 5 for the Port Development Program.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Incentive Programs

Chapter 5. Port Development Program

§501. Purpose and Scope

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

§503. Definitions

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

Award—funding approved under this program for eligible applicants.

Awardee—an applicant receiving an award under this program.

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

Cash—any asset on the port's records used for the project. Land's value will be determined by its appraised value.

DED—Louisiana Department of Economic Development.

In-kind—any service, land or equipment, related to the project, donated to a port outside of its legal entity.

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

Program—the Port Development Program.

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

Secretary—the Secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

§505. Program Objective

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

§507. Eligibility

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

§509. Types of Projects

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

§511. Match

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

§513. Application Procedure

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

1. A description of the proposed project including the nature and goals of the project, design and its major components. Justify the immediate need for the project.

2. Indicate the total cost of the project. Also show the sources of funding and when they will be available.

3. Provide construction, operation and maintenance plans, and a timetable for the project's completion.

4. Any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

§515. Submission of Applications

Applications must be submitted to the DED by March 1 to be considered for funding for the following fiscal year. Two copies of the application with all attachments should be submitted to the Secretary of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

§517. Criteria

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

§519. Project Review Procedure

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

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;
2. validate the information presented;
3. determine the overall feasibility of the port's plan.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

§521. Funding

A port shall not be allocated in excess of 50 percent of the total appropriation as long as the appropriation does not exceed \$5 million. In the event the appropriation for the Port Development Program exceeds \$5 million, an individual award shall not exceed \$1 million each.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

§523. Conditions for Disbursement of Funds

A. Grant award funds will be available to each port on a reimbursement basis following submission of required documentation to DED. Only funds spent on the project after the cooperative endeavor agreement (contract) has been agreed upon, signed and executed will be considered eligible for reimbursement.

B. Ports will be eligible for reimbursement of approved expenses up to 90 percent of the award amount. After all deliverables are completed according to the terms of the contract, the final 10 percent of the award will be made available for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

§525. Monitoring

All monitoring will be done by DED. A portion of the fiscal years' appropriation, up to 5 percent, not to exceed \$50,000, may be used by the DED to fund monitoring costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

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

The proposed rules are to become effective on August 1, 1999 as an emergency rule and will remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

Interested persons may comment on the proposed rules in writing until September 10, 1999 to Randy Rogers, National Marketing Director, Department of Economic Development, Post Office Box 94185, Baton Rouge, La 70804-9185 or 101 France Street, Suite 202, Baton Rouge, LA 70802.

Family Impact Statement

The adoption and implementation of these rules will have the following impact on the formation, stability and autonomy of the family.

1. They will positively impact the stability of the family by providing more job opportunities as a result of the improved economic conditions produced as a result of this program.

2. They will not affect the authority and rights of parents regarding the education and supervision of their children.

3. They will positively affect on the functioning of the family by providing additional job opportunities.

4. They will have a positive impact on the family earnings and family budget by providing additional job opportunities to the unemployed and allowing those employed in lower paying jobs to obtain higher paying jobs.

5. They will not affect the behavior and personal responsibility of children.

6. They will provide clarification to the family and local government on how the program works.

Kevin P. Reilly, Sr.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Port Development Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This program was created by Act 29 of the 1998 Regular Session with the Department of Economic Development (DED), Office of the Secretary given the responsibility for its administration. The rules are being amended in order to incorporate changes thereto that will expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program. No changes in cost are anticipated. Existing staff within the National Marketing Division will be used to administer the program and to provide the economic impact analysis.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collection is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This program expects to serve approximately four to five (4-5) Ports with this year's funding. The number to be served in future years is anticipated to increase exponentially depending on the increased level of funding.

LAC 13:III.Chapter 5 established the Rules of the Port Development Program. It provides, among other things, the purpose and objectives of the program, eligibility requirements, financial match requirements, application procedures, review procedures, and disbursement of funding criteria.

No net changes in costs are anticipated, although the changes in the program rules are expected to expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The program is anticipated to have a positive impact on competition and employment.

This program's goal is to reduce unemployment and the risk of future unemployment by assisting businesses and Public Port Authorities through project grants to sustain certain Louisiana ports and navigable waterways, particularly those infrastructures that improve the efficiency of the system and contribute to the location, expansion or retention of industry and employment.

Kevin P. Reilly, Sr.
Secretary
9909#055

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of the Secretary**

Workforce Development and Training Program
(LAC 13:III.Chapter 3)

In accordance with R.S. 51:2341, notice is hereby given that the Department of Economic Development, Office of

the Secretary, proposes to promulgate rules and regulations in LAC 13:III.Chapter 3 for the Workforce Development and Training Program.

Title 13
ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 3. Workforce Development and Training Program

§301. Purpose

The purpose of the program is to develop and provide customized workforce training programs to existing and prospective Louisiana businesses as a means of:

1. improving the competitiveness and productivity of Louisiana's workforce and business community;
2. assisting Louisiana businesses in promoting employment stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§303. Definitions

Applicant—the entity requesting training assistance from DED under this program.

Award—funding approved under this program for eligible training activities.

Awardee—an applicant (and/or company(ies)) receiving a training award under this program.

Contract—a legally enforceable agreement between DED, the awardee and a sponsoring entity governing the terms and conditions of the training award.

Contractee—the awardee and sponsoring entity that are party to a training award contract with DED under this program.

DED—Louisiana Department of Economic Development.

Program—the Workforce Development and Training Program.

Secretary—the Secretary of the Department of Economic Development.

Sponsoring Entity—the public or not for profit entity responsible for performing and/or overseeing implementation of the project and supervising the company's compliance with the terms and conditions of the award agreement and for reimbursing the awardee for eligible training costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§305. General Principles

The following principles will direct the administration of the Workforce Development and Training Program:

1. training awards are not to be construed as an entitlement for companies locating or located in Louisiana;
2. awards must reasonably be expected to be a significant factor in companies' location, investment, and/or expansion decisions;

3. awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities;

4. evaluations for the enhancement of existing Louisiana businesses that are adding locations within the state will be conducted with the same procedures and with the same priority as the recruitment of new businesses to the state;

5. the anticipated economic benefits to the state will be considered in making the award;

6. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and

7. a train-the-trainer approach will be adopted whenever appropriate in order to strengthen the institutional capacity of public and private sector training providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§307. Program Descriptions

This program provides two types of training assistance for companies seeking prospective employees who possess sufficient skills to perform the jobs to be created by the companies. The training to be funded can include:

1. pre-employment training for which prospective employees are identified and recruited for training with the knowledge that the company will hire a portion of the trainees; and

2. on-the-job (and/or upgrade) training for employees that is needed to bring the employees up to a minimum skill and/or productivity level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§309. Eligibility

A. An eligible applicant is an employer, or community-based organization that seeks customized training services to provide training in a particular industry.

B. Employees to be trained must be employed in Louisiana, except for projects locating at Stennis Space Center in Mississippi. Employees to be trained for projects at Stennis Space Center must be Louisiana residents.

C. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if company has another contract with the Department of Economic Development in which the company is in default and/or is not in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic

Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§311. Criteria

A. General. (These apply to all training programs administered under these rules.)

1. Preference will be given to applicants in industries identified by the state as target industries, and to applicants locating in areas of the state with high unemployment levels.

2. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.

3. If a company does not begin the project within 365 days of application approval, the secretary, at his discretion, may cancel funding of the training.

4. Number of jobs to be retained and/or created as stated in the application will be adhered to and will be made an integral part of the contract.

B. Pre-Employment, Upgrade and On-the-Job Training

1. Applicants must create at least ten (10) net new jobs in the state, unless upgrade training is involved. Upgrade training must be provided to a minimum of 10 employees.

2. Participation in pre-employment training does not guarantee students a job upon completion of their training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§313. Application Procedure

DED will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. the company's overall training plan, including a summary of the types and amounts of training to be provided and a description of how the company determined its need for training;

3. the specific training programs for which DED assistance is requested, including descriptions of the methods, providers and costs of the proposed training; and

4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§315. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed, in order to:

1. evaluate the importance of the proposed training to the economic well-being of the state and local communities;

2. identify the availability of existing training programs which could be adapted to meet the employer's needs;

3. verify that the business will continue to operate during the period of the contract;

4. determine if employer's training plan is cost effective.

B. A cost-benefit analysis tailored to applicants' specific industries shall be conducted by DED to determine the net benefit to the state of the proposed training award.

C. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the Secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the Secretary of the Department of Economic Development;

2. the Governor; and

3. the Joint Legislative Committee on the Budget.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§317. General Award Provisions

A. Award Agreement

1. A contract will be executed between DED, the applicant (and/or company(ies) receiving training) and an appropriate sponsoring entity from the same geographic area as the applicant. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for job training and job creation.

2. DED will disburse funds to the sponsoring entity in a manner determined by DED.

3. The sponsoring entity will oversee the progress of the training and reimburse the applicant from cost reports submitted by the applicant on a form approved by DED. DED, at its discretion, may request the sponsor to obtain additional information.

4. Funds may be used for training programs extending up to two (2) years in duration.

5. Contracts issued under previous rules may be amended to reflect current regulations as of the date of the most recent change, upon request and approval of the Contractor and the Secretary.

B. Funding. Award may not exceed \$500,000 for total amount.

1. The Louisiana Workforce Development and Training Program offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include the following:

a. Instruction Costs: wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers, training seminars;

b. Travel Costs: travel for trainers, training coordinators and trainees;

c. Materials and Supplies Costs: training texts and manuals, audio/visual materials, raw materials for manufacturer's training purposes only and Computer Based Training (CBT) software; and

d. Other Costs: When necessary for training, such as facility rental.

3. Training costs ineligible for reimbursement include:

a. trainee wages and fringe benefits;

b. non-consumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures, non-Computer Based Training (CBT) software), unless owned by a public training provider;

c. out-of-state, publicly supported schools;

d. employee handbooks;

e. scrap produced during training;

f. food, refreshments; and

g. awards.

4. Training activities eligible for funding consist of:

a. company-specific skills: skills which are unique to a company's workplace, equipment and/or capital investment;

b. quality standards skills: skills which are intended to increase the quality of a company's products and/or services and ensure compliance with accepted international and industrial quality standards (e.g., ISO standards); and

c. skills pertaining to instructional methods and techniques used by trainers (e.g., train-the-trainer activities).

C. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of required documentation to DED by sponsoring entity. Funds will not be available for reimbursement until a training agreement between the applicant (and/or company(ies) receiving the training), DED and sponsoring entity has been executed. Only funds spent on the project after the Secretary's approval will be considered eligible for reimbursement. However, reimbursement's can only be provided upon final execution of a contract with the Department of Economic Development.

2. Companies will be eligible for reimbursement at 90 percent until all contracted performance objectives have been met. After the company has achieved 100 percent of its contracted performance objectives, the remaining 10 percent of the grant award will be made available for reimbursement.

D. Compliance Requirements

1. Contractees shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with DED. Progress reports by sponsoring entity shall include a review and certification of company's hiring records and the extent of company's compliance with contract employment commitments. Further, sponsoring entity shall oversee the timely submission of reporting requirements of the company to DED.

2. The termination of employees during the contract period who have received program-funded training shall be for documented cause only, which shall include voluntary termination.

3. In the event a company or sponsoring entity fails to meet its performance objectives specified in its contract with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

4. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

5. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

§319. Contract Monitoring

All monitoring will be done by DED. A portion of the fiscal years' appropriation, up to 5 percent or a maximum of \$200,000.00, may be used by the DED to fund monitoring costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:

Interested persons may comment on the proposed rules in writing until September 10, 1999 to Randy Rogers, National Marketing Director, Department of Economic Development, Post Office Box 94185, Baton Rouge, La 70804-9185 or 101 France Street, Suite 202, Baton Rouge, LA 70802.

Family Impact Statement

The adoption and implementation of these rules will have the following impact on the formation, stability and autonomy of the family:

1. They will positively impact the stability of the family by providing more job opportunities as a result of the improved economic conditions produced as a result of this program.

2. They will not affect the authority and rights of parents regarding the education and supervision of their children.

3. They will positively affect on the functioning of the family by providing additional job opportunities.

4. They will have a positive impact on the family earnings and family budget by providing additional job opportunities to the unemployed and allowing those employed in lower paying jobs to obtain higher paying jobs.

5. They will not affect the behavior and personal responsibility of children.

6. They will provide clarification to the family and local government on how the program works.

Kevin P. Reilly, Sr.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Workforce Development and
Training Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Pursuant to Louisiana R.S. 51:2333, et seq., this program is administered by the Department of Economic Development (DED), Office of the Secretary. No net changes in cost are anticipated. An additional staff member will be added within the National Marketing Division who will monitor the entities contracting with DED, assist in administering the program and in providing the economic impact analysis. Any expense associated with this new person will be paid out of savings realized by not having to pay other entities to do the monitoring.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effect on revenue collection is anticipated.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This change in the program rules is expected to expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This program's goal is to reduce unemployment and the risk of future unemployment by assisting businesses through incentives. This change in the Rules was made in an attempt to incorporate changes thereto that will expedite and facilitate processing of applications for funding and serve to enhance the public's understanding of the program.

Kevin P. Reilly, Sr.
Secretary
9909#056

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

**Substance Abuse and Drug-Free Workplace Program
(LAC 13:IX.Chapter 1)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and also in accordance with Executive Order MJF 98-38, R.S. 49:1001 et seq., and R.S. 4:141 et seq., notice is hereby given that the Louisiana State Racing Commission intends to promulgate rules

regarding the implementation of a drug testing program for new and existing employees in the Racing Commission's domicile office, field auditors and members appointed to the commission. These rules do not affect those field employees and licensees already covered by LAC 35:I.1791 and LAC 35:I.1793. This proposed chapter of rules has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Title 13

ECONOMIC DEVELOPMENT

Part IX. Office of the Racing Commission

**Chapter 1. Substance Abuse and Drug-Free
Workplace Program**

§101. Philosophy

A. The Louisiana State Racing Commission (LRC) is totally committed to deterring substance abuse or use which imperils the health and well-being of our employees and the citizens of this state. To accomplish this, the LRC hereby adopts these Substance Abuse and Drug-Free Workplace rules which will enhance the safety and welfare of our employees, increase overall productivity and the quality of our service to the public, preserve property and equipment, promote public safety, reduce absenteeism and job-related accidents which, in turn, will improve the image and reputation of the LRC and its employees.

B. The LRC's philosophy is consistent with the state of Louisiana's long-standing commitment to establishing a drug-free workplace. To deter the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the state of Louisiana recently issued Executive Order 98-38 providing for the promulgation, by executive agencies, of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees in accordance with R.S. 49:1001, et seq. The LRC fully supports these actions and is committed to a drug-free workplace.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

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

§103. Applicability

A. These rules apply to domicile employees, field auditors and appointees of the LRC, as well as potential employees and appointees to those positions.

B. Following a job offer, potential employees and potential appointees will be required to submit to pre-employment drug testing. All employees/appointees are subject to post-accident/incident, reasonable suspicion and return-to-duty/rehabilitation monitoring drug and alcohol testing. Employees who incumbent safety-sensitive positions and applicants who apply for safety-sensitive positions are subject to both random and pre-selection drug and alcohol testing. Finally, prior to being reassigned, temporarily detailed, promoted or demoted to a safety-sensitive position, an employee is required to undergo drug and alcohol testing. A list of the safety-sensitive positions within the LRC is contained within §121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

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

§105. Requirements

A. To maintain a safe and productive work environment, all LRC employees are required to:

1. report for duty in the physical and emotional condition which maximizes his/her ability to perform assigned tasks in a competent and safe manner;
2. promptly and cooperatively submit to drug/alcohol testing when required by a supervisor or appointing authority;
3. notify a supervisor on the first scheduled workday following any arrest or conviction for DWI, drug or drug-related offense which occurs on or off duty.

B. The LRC prohibits the use, abuse and presence of unauthorized alcohol, illegal or unauthorized drugs, and other prohibited substances in the bodies of its employees while on duty, scheduled on-call or engaged in LRC business, on or off LRC/state premises. The presence of unauthorized alcohol, illegal or unauthorized drugs, and other prohibited substances in a state vehicle while on or off duty is also prohibited.

1. The presence of alcohol is indicated by a confirmed blood alcohol concentration of 0.05 percent or more by weight based upon grams of alcohol per 100 cubic centimeters of blood.

2.a Illegal or unauthorized drugs include:

- i. any drug which is not legally obtainable;
- ii. any drug which is legally obtainable, but has been illegally obtained;
- iii. prescription drugs not being used in accordance with the prescription;
- iv. or any substance which affects the employee's ability to safely and competently perform assigned duties.

b. Controlled dangerous substances are listed in schedule I, II, III, IV and V of R.S. 40:964.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

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

§107. Drug/Alcohol Testing

A. All employees may be required to submit to drug and/or alcohol testing as a condition of employment, as a condition of continued employment, or as a condition of promotion, demotion, reassignment or detail to a safety-sensitive position. Whether announced or unannounced, tests will be administered under the following circumstances:

1. Pre-Employment. Drug tests are required of all prospective employees and appointees of the LRC. Each prospective employee/appointee shall be required to submit to drug screening at the designated time and place following a job offer. Pursuant to R.S. 49:1008, a prospective employee/appointee testing positive for the presence of a prohibited substance shall be eliminated from consideration for employment/appointment. Additionally, applicants for safety-sensitive positions listed in §121 shall be required to submit to alcohol testing. Applicants who test positive for the presence of alcohol shall be eliminated from consideration for employment.

2. Post-Accident/Incident. An employee may be subject to drug testing following an on-duty accident where there is a reasonable suspicion that the employee was under the influence of drugs or alcohol. *Reasonable suspicion* is a

belief, based upon reliable, objective and articulable facts derived from direct observation of specific physical and behavioral characteristics (behavior, speech, appearance, odor), which causes a prudent person to suspect that an employee has engaged in drug or alcohol use. Only an appointing authority shall require an employee to submit to post-accident/incident testing. Generally, this decision will be based upon the recommendation of supervisory personnel at the scene who have objectively and thoroughly reviewed the circumstances of the accident/incident. The supervisor will fully document the facts upon which the recommendation for testing is made. Any employee directly involved in an on-duty accident shall be required to submit to drug and alcohol testing if:

a. the accident involves circumstances giving rise to a reasonable suspicion that the accident may have involved the employee's drug or alcohol use and the employee's action or inaction may have been a causative factor;

b. the accident meets the criteria of §107.A.2a and results in or causes the release of hazardous waste as defined by R.S. 30:2173(2) or hazardous materials as defined by R.S. 32:1502(5); or

c. the accident results in a fatality or serious bodily injury.

Note: When post-accident/incident testing is ordered, an LRC representative shall transport the individual being tested to and from the testing site. Under no circumstances should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.

3. Random. Random alcohol and drug testing is required of all employees holding safety-sensitive positions as listed in §121. Such testing shall be periodic and unannounced, and employee selection therefor shall be by a computer-generated random selection process. All such testing shall, unless impracticable, occur during the employee's normal work hours.

4. Promotion/Reassignment/Etc. to Safety-Sensitive Position. Current employees are required to undergo drug and alcohol testing prior to being reassigned, temporarily detailed, promoted or demoted to a safety-sensitive position as defined in §121. An offer of promotion, reassignment, detail or demotion will be withdrawn if a positive drug or alcohol test result is reported, and employees are further subject to disciplinary action as specified in these rules.

5. Reasonable Suspicion. An employee shall be required to submit to drug and alcohol testing when he/she exhibits behavior or appearance that is characteristic of drug or alcohol use. The decision to test will be by an appointing authority based upon reliable, objective and articulable facts derived from direct observation of the employee's physical appearance, behavior, speech, body odor or physical manifestations. The observation must be made by supervisory personnel (two, if possible) who shall record, in writing, the observations leading to the recommendation for testing.

Note: When reasonable suspicion testing is ordered, an LRC representative shall transport the individual being tested to and from the testing site. Under no circumstances should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.

6. Return-to-Duty/Rehabilitation Monitoring. Any employee who retains his/her job following a violation of these rules shall be required, at his/her own expense, to

undergo and complete any and all treatment recommended by a certified substance abuse professional. Any such employee shall be subject to periodic drug/alcohol testing. Further, any employee who voluntarily or, as a condition of continued employment, participates in an alcohol/substance abuse rehabilitation program, shall be subject to random drug/alcohol testing for a minimum of one year or longer as determined by the treating substance abuse professional. Any such employee shall be required to certify, in writing, his/her understanding and acceptance of such a rehabilitation agreement as a condition of returning to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

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

§109. Drug Testing Procedures

A. Drug testing pursuant to this policy shall be for the presence of marijuana, opiates, cocaine, amphetamine/methamphetamine and phencyclidine (PCP) in accordance with R.S. 49:1001, et seq. Testing shall be performed by a contractor chosen by the Office of State Purchasing, Division of Administration. At a minimum, the testing procedure shall assure:

1. that all specimens for drug testing are collected, stored, transported and tested in compliance with United States Department of Health and Human Services (DHHS) guidelines (and applicable federal and state regulations) to ensure integrity of the testing process;

2. urine specimens will be collected with emphasis upon the privacy rights of the employee. Direct observation of the employee during collection of the urine specimen will be allowed only under the following conditions:

a. when there is specific, articulable reason to believe that the individual may alter or substitute the specimen;

b. when the individual has provided a urine specimen which falls outside the acceptable temperature range;

c. when the last urine specimen provided by the individual was verified by the medical review officer as adulterated; or

d. when collection site personnel observe conduct or behavior indicating an attempt to substitute/adulterate the sample or otherwise alter the integrity of the collection process;

Note: In all instances in which direct observation is deemed appropriate, the designated LRC representative shall review and concur, in advance, with any decision by collection site personnel to obtain a specimen under direct observation. This representative shall maintain, in a confidential record, the full name of the reporting collection site personnel and the specific facts relied upon to approve the direct observation. The record shall be signed by the LRC representative. All direct observations shall be conducted by same gender collection site personnel.

3. the split sample collection methodology must be used in accordance with R.S. 49:1006(D), with both the primary and split specimens properly stored and transported to the testing laboratory. The primary urine sample will be analyzed for the presence of marijuana, opiates, amphetamines/methamphetamine, cocaine and phencyclidine (PCP);

4. appropriate chain of custody forms shall be utilized to ensure the integrity of each urine specimen by tracking its

handling, storage and transportation from point of collection to final disposition;

5. testing shall be performed by laboratories certified for forensic urine drug testing by the U.S. Department of Health and Human Services and in strict compliance with DHHS Guidelines;

6. the dual testing procedure shall be used for all samples. Each primary sample that tests positive for a prohibited substance shall be subject to an additional, more precise confirmatory test (gas chromatography/mass spectrometry);

7. all positive test results (those which exceed federally established cut-off levels as set forth in 49 CFR 40, Section 40.29), shall first be reported by the testing laboratory to the LRC's qualified medical review officer (MRO). The MRO is a licensed physician knowledgeable of substance abuse who has received specialized training in interpreting and evaluating test results in conjunction with an individual's medical history and other relevant biomedical information. The MRO will review the collection procedure, chain of custody and testing methodology before contacting the employee/appointee/applicant to rule out the possibility of error or that medications, medical history or any other condition caused the positive test result;

8. if the test is confirmed to be positive by the MRO, the employee may, within 72 hours of notification from the MRO, request, in writing, directly to the MRO, that the split specimen (initially collected but separated and stored during the collection process) be tested in a different DHHS certified laboratory. This split sample testing shall be allowed if timely requested and performed at the employee's expense;

9. once a positive test is confirmed and reported to the LRC by the MRO, an employee in a safety-sensitive position will be prohibited from performing safety-sensitive functions. A request for testing of the split sample will not delay any such employee's removal from performing safety-sensitive functions; and

10. if testing of the split specimen results in a negative result, the MRO will cancel the positive result of the initial test. All doubts shall be resolved in favor of the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

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

§111. Alcohol Testing Procedures

A. Evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration will be used by certified breath alcohol technicians to determine the presence of alcohol in the employee's system.

B. The employee will be advised of the results of the breath screening test. No further testing will be required if the test results are negative. If the screening test is positive for the presence of alcohol, a confirmation test will be performed within 20 minutes, but not less than 15 minutes of completion of the screening test. If the confirmatory test indicates a blood alcohol concentration of 0.05 percent or more by weight based upon grams of alcohol per 100 cubic centimeters of blood, the results will be reported as positive to the LRC's designated representative.

C. An employee occupying a safety-sensitive position will be immediately removed from performing safety-sensitive functions in the event of a positive alcohol test.

D. Positive test results will also be reported to the appointing authority whenever an employee refuses to complete or sign the breath alcohol confirmation testing form, provide breath or an adequate amount of breath (excluding medical inability), or fails to cooperate with the testing procedure in any way that prevents completion of the test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

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

§113. Enforcement

A. The use of illegal drugs, unauthorized alcohol and other controlled or unauthorized substances will not be tolerated. Substance abuse endangers the health and well-being of our employees, prevents quality service to the public and is inconsistent with the LRC's mission. While the LRC's position is firm, the LRC will resolve any reasonable doubt regarding the testing procedure or results in the employee's favor.

B. Disciplinary action will be taken after a complete and thorough review of the applicable data in accordance with Chapter 12 of the Civil Service Rules. Employees will be provided pre-deprivation notice and a meaningful opportunity to respond prior to the imposition of disciplinary action.

C. Penalty for a First Positive Test. A first positive test (drug or alcohol) will result in disciplinary action up to and including the possibility of termination. Factors to be considered in determining the appropriate sanction include, but are not limited to, the employee's work history, length of service, current job performance and the existence of prior disciplinary action. At a minimum, the first-time offender will remain off from work at least 30 calendar days. For any such period, the first ten workdays will be a suspension, without pay. For the remaining 20 days, the employee will be permitted to use annual, sick or compensatory leave, if available. During this 30-day period, the employee shall obtain a substance abuse evaluation and commence any recommended rehabilitative treatment. Refusal to participate in the evaluation/treatment process, at the employee's expense, will result in termination.

D. Termination will be the recommended penalty for the following violations:

1. second positive drug test result or confirmed blood alcohol level above the applicable thresholds;
2. refusal to submit to a drug or alcohol test;
3. failure to cooperate in any way which prevents the completion of a drug or alcohol test;
4. submission of an adulterated or substitute sample for testing;
5. buying, selling, dispensing, distributing or possessing unauthorized alcohol or any illegal or unauthorized substance while on duty, in a state vehicle or on LRC/state premises; and
6. operating a state vehicle or personal vehicle while on duty under the influence of drugs or alcohol where testing administered by an authorized official confirms a violation of these rules.

E. Suspension will be the recommended penalty for the following violations:

1. failure to notify a supervisor of an off-duty arrest or conviction of DWI or drug-related offense at the beginning of the next scheduled workday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

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

§115. Confidentiality/Employee Rights

A. All drug and alcohol testing results and records (including all information, interviews, reports and statements) are considered confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceeding, except in an administrative or disciplinary proceeding or civil litigation where drug use by the tested individual is relevant. Exceptions to these confidentiality provisions are limited to written employee consent; federal agencies when licensure or certification actions are required; to a decision-maker in arbitration, litigation or administrative proceedings arising from a positive drug test; and as otherwise required by law.

B. In compliance with R.S. 49:1011, any employee, upon learning of a confirmed positive test result, shall, upon written request, have the right of access, within seven working days, to records and other documentation relating to the drug testing process and any records relating to the results of any relevant certification, review, suspension/revocation proceedings of the testing facility.

C. Employees should know that statistical records and reports of drug testing are maintained by the LRC, contract physicians and drug testing laboratories. This information is aggregate data and is used to monitor compliance and to assess the effectiveness of the drug testing program.

D. The LRC has no interest in informing law enforcement authorities of a positive drug test. However, nothing contained in these rules will be construed to preclude the delivery of any illegal drug, controlled dangerous substance, or other substance prohibited by this policy, discovered in/on LRC/state property, or upon the person of an LRC employee, to law enforcement officials. Likewise, any employee engaged in the sale, attempted sale, distribution or transfer of illegal drugs or controlled substances while on duty or on LRC/state property shall be referred to appropriate law enforcement authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

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

§117. Employee Assistance Program

A. Early recognition and treatment of drug abuse or dependency are essential to successful rehabilitation. Employees experiencing a substance abuse problem are encouraged to seek assistance from the LRC's Employee Assistance Program (EAP) coordinator within the Human Resources Division of the Department of Economic Development. Any such involvement will be held in strict confidence, but employees should know that supervisors and appointing authorities (who need to know) will be kept abreast of the employee's treatment and leave needs.

B. Employees referred to the EAP coordinator by supervisory personnel or who, as a condition of continued

employment, participate in a substance abuse rehabilitation program will be subject to the return-to-duty/rehabilitation monitoring testing set forth in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

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

§119. General Provisions

A. The LRC reserves the right to have a licensed physician, of its own choosing and at its own expense, determine if use of prescription medication produces effects which impair the employee's performance or increase the risk of injury to the employee or others. In such case, the LRC will modify the employee's customary job duties or work activities for the period the employee is unable to safely perform his/her customary job duties. Alternatively, the employee may be required/permitted to use accrued leave.

B. Although the substance abuse testing defined in these rules is restricted to five specified drugs and alcohol, the LRC reserves the right to require employees to submit to additional testing, if warranted. Such tests will only be administered when post-accident or reasonable suspicion testing produce negative results and the employee's behavior clearly indicates impairment or other indicia of substance use. Separate samples will be collected for these additional tests and the testing process will fully comply with DHHS regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

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

§121. Safety-Sensitive Positions

There are no safety sensitive positions in the LRC at this time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:148 and R.S. 49:1001 et seq.

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

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact C.A. Rieger, assistant director, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through October 8, 1999, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Albert M. Stall
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Substance Abuse and Drug-Free Workplace Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The costs to implement this rule will be limited to the cost-per-sample and total number of samples taken, which will be on a fiscal year basis. The Department of Economic Development will incur the cost for testing, which has been set

at \$23.50 per sample, and the Commission anticipates having no more than 5 samples per fiscal year (\$23.50 x 5 = \$117.50).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This action is not anticipated to affect revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action is intended to benefit employees. The costs for subsequent testing, where necessary, may be borne by an affected employee, however, this is anticipated to be very rare if at all.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no effect on competition nor employment.

Albert M. Stall
Chairman
9909#011

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Louisiana School and District
Accountability System Appeal/Waiver Procedure
(LAC 28:1.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:1.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The School Accountability System was promulgated as a Rule in the June, 1999 issue of the *Louisiana Register*. The Accountability standards are being amended to add Standard 2.006.13 which includes an appeal/waiver procedure that shall be used to address unforeseen and aberrant factors impacting schools in Louisiana.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 24:1085 (June 1998), LR 25:108 (January 1999), LR 25:

The Louisiana School And District Accountability System

Appeals Procedures

2.006.13 An appeal/waiver procedure has been authorized by the State Board of Elementary and Secondary Education (SBESE) and shall be used to address unforeseen and aberrant factors impacting schools in Louisiana.

There shall be two administrative bodies empowered by SBESE to manage the appeal/waiver process of the Louisiana School and District Accountability System: the Louisiana Department of Education Interdepartmental Review Committee and the Accountability Advisory Committee.

The Interdepartmental Review Committee approves appeal/waiver requests or makes recommendations to the SBESE concerning issues from local educational boards of education that deviate from policies associated with the Louisiana District and School Accountability System.

The Accountability Advisory Committee serves as an independent agent whose function is to make recommendations to the SBESE regarding claims filed by aggrieved parties after they have been heard by the Interdepartmental Review Committee.

An appeal is generally defined as a request for the calculation or recalculation of the School Performance Score (SPS), and/or SPS baseline and Growth Target.

Criteria for Appeal

1. The student population in a school significantly increases by greater than or equal to ten percent as a result of students transferring into the school from outside of the district (Ref. 2.006.14)
2. A school's (K-12) grade structure and/or size (enrollment) is significantly reconfigured by fifty percent or more from the previous academic year (Ref. 2.006.16).
3. An Alternative School in Option I changes to Option II by petitioning SBESE and meeting the eligibility requirements outlined in Bulletin 741, Section 2.006.14.
4. An Alternative School in Option II changes to Option I by petitioning SBESE because the aforementioned school no longer meets the eligibility requirements outlined in Bulletin 741, Section 1.006.14.
5. An Alternative School that is placed in Option I status because of a lack of testing units but desires to be placed in Option II status. (Applicable for school year 1999-2000 only.)
6. As a result of redistricting or other significant enrollment changes, a school is paired or shared with another school (Ref. 2006.15).
7. A *paired* school's enrollment has significantly changed by fifty percent or more from the previous academic year and/or has been involved with redistricting by the local governing board or education (Ref. 2.006.15).
8. A *shared* school's enrollment has significantly changed by fifty percent or more from the previous academic year and/or has been involved with redistricting by the local governing board of education (Ref. 2.006.15).

A waiver is generally defined as a temporary "withholding" of accountability decisions for no more than one accountability cycle. Waivers shall be denied to aggrieved parties attempting to subvert the intent of provisions outlined in the state statute

Criteria for Waiver

1. The recalculated SPS baseline of a school changes by five points (+/-5) as a result of a significant change of ten percent or more in the student population because of students transferring into the school from outside of the district (Ref. 2.006.14).
2. A school's grade structure and/or size (enrollment) is changed less than fifty percent but more than twenty-five percent from the previous academic year because of reconfiguration (Ref. 2.006.16).
3. Factors beyond the reasonable control of the local governing board of education and also beyond the reasonable control of the school.
4. The student body of the school (Pre-K through K-2) comprises primarily Pre-K and K students (greater than fifty percent of the total student membership) and has no systematic "feeding" pattern into another school or schools by which it could be paired (Ref. 2.006.15). A feeding pattern is defined as the plan used by local governing boards of education to transfer students from one school to another for educational services as a result of pupil progression into higher grades.
5. A school lacks the statistically significant number of testing units for the CRT (40 units) and NRT (20 units) necessary to calculate the SPS and has no systematic "feeding" pattern into another school by which data could be "shared" (Ref. 2.006.15) because the school is:
 - a Lab School;
 - a Type 1, 2, or 3 Charter School;
 - operated by the Department of Corrections; or
 - beyond the sovereign borders of Louisiana;
 - an SSD #1 or #2 school
 - a BESE school
 - non-diploma bound.

General Guidelines: Parent/School-Level Requests

Parents or individual schools seeking an appeal or waiver on issues relating to Louisiana's District and School Accountability System shall file their requests, regardless of the type, through the Superintendent or an appointed representative authorized by the local governing board of education.

General Guidelines: Local Board of Education-Level Requests

The Superintendent, or official representative, of each local governing board of education shall complete the LDE's Appeals/Waivers Request Form and provide supporting documentation to the Division of School Standards, Accountability, and Assistance no later than 30 calendar days after the official release of the School Performance Scores in the fall of each year. Data corrections shall not be grounds for an appeal or waiver request unless (a) evidence attributes data

errors to the LDE and/or those contractors used for the student assessment program, and (b) a change results in the Performance Label, Growth Label or Corrective Actions status. Requests concerning either the inclusion or exclusion of special education student score in the calculations of a school's SPS and Growth Target, except as outlined in Bulletin 741, shall not be considered by the LDE.

Supporting documentation for appeal/waiver requests should clearly outline those data that are erroneous. Further, computations by the local board of education's officials should provide evidence that the school's SPS is significantly affected by the data in question and such a change results in a different Performance and/or Growth label. Additional information may be required by the LDE to support an appeal or waiver.

Interested persons may submit written comments until 4:30 p.m., November 9, 1999 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Louisiana School and District Accountability System Appeal/Waiver Procedure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to state governmental units. Existing Department of Education staff will manage the appeals/waiver process. Existing Department of Education staff will also serve on the Interdepartmental Review Committee to approve appeal/waiver requests or make recommendations to the State Board of Elementary and Secondary Education concerning issues from local boards of education that deviate from policies associated with the Louisiana School and District Accountability System. Local school systems may incur costs of an unknown amount associated with filing appeals with the Department of Education. However, there may be substantial savings to local school systems if an appeal/waiver is approved and schools and local school boards do not have to assume the costs associated with Corrective Actions, such as, costs not funded by the state for teacher staff development and in-service training, collection and analysis of data for the state's diagnostic process, personnel assigned to District Assistance Teams, and transportation costs for students who choose to attend another school within the district as part of Corrective Actions II and III.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Without the appeals/waivers process, local school systems have no recourse for addressing unforeseen and aberrant factors impacting schools in Louisiana and could enter or remain in Corrective Actions whereby they could eventually be reconstituted. Teachers who have taught in a school that is reconstituted may have difficulty finding employment as a result of the stigma of having taught in such a school. Local school systems may have difficulty hiring teachers to teach in schools in Corrective Actions.

Marlyn Langley
Deputy Superintendent
9909#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—State Standards for Locally Initiated Electives (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed amendment establishes State Standards for Locally-Initiated Electives and grants local education agencies authority to approve elective courses that meet said standards.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975), amended LR 25:

ADD: Standard 1.090.10 Adding Elective/Exploratories to the Program of Studies

Standard 1.090.10

A school system choosing to add an elective/exploratory course to its program of studies shall establish policy and procedures for reviewing and approving courses that meet State Standards for Locally-Initiated Electives as established by the State Board of Elementary and Secondary Education.

REVISE: Standards 1.090.11 and 1.090.12

Standard 1.090.11

Locally-initiated electives shall support the standards-based initiatives and include the key components addressed in the content standards documents.

Electives shall support the mission of the standards-based initiatives: to develop rigorous and challenging standards that will enable all Louisiana students to become lifelong learners and productive citizens for the 21st century ;

Electives shall incorporate the Foundation Skills of the State Content Standards (Communication, Problem Solving, Resource Access and Utilization, Linking and Generating Knowledge, and Citizenship);

Electives shall expand, enhance, and/or refine Mathematics, Science, Social Studies, English Language Arts, Foreign Language, the Arts, Business Education, Agriscience/Agribusiness State Standards and those standards approved by the State Board of Elementary and Secondary Education (SBESE) for other content areas.

Standard 1.090.12

Electives shall comply with all policies set forth by the SBESE as stated in current *Louisiana Handbook for School Administrators: Bulletin 741*.

ADD: Standards 1.090.13-1.090.15

Standard 1.090.13

A school system shall develop a process for approving elective courses. This process shall ensure alignment with the standards-based initiatives, compliance with current *Bulletin 741*, and all laws and regulations pertaining to students with disabilities.

Electives shall enhance, expand, and/or refine the core curriculum. Elective courses shall not replace, duplicate, or significantly overlap the content of core curriculum or other approved electives;

Electives shall meet specific curriculum goals of the district;

Electives shall include challenging content that requires students to extend the knowledge and skills acquired through the core curriculum;

Electives shall provide a variety of activities and hands-on learning experiences that accommodate different learning styles;

Electives shall include appropriate accommodations for addressing specific instructional and assessment needs of students with disabilities, students who are linguistically and/or culturally diverse, and students who are gifted and talented;

Electives shall incorporate assessment strategies that support statewide assessments.

ADD: Standard 1.090.14

Standard 1.090.14

A school system shall maintain records of all approved electives and submit reports to the Department.

All approved electives shall be submitted to the Department thirty (30) days prior to implementation (submissions may be made electronically).

A school system shall submit a statement of assurance that approved electives meet State Standards for Locally-Initiated Electives as established by the State Board of Elementary and Secondary Education.

A school system shall maintain records of electives that include: a rationale for the course, a detailed content outline, certification of the instructor, Carnegie unit credit, prerequisites for the course, a plan for assessing students, a plan for assessing the course, and the dates of implementation.

ADD: Standard 1.090.15

Standard 1.090.15

Electives shall comply with all state and federal constitutional, statutory, and regulatory guidelines and requirements.

A school system shall be responsible for seeking legal counsel to ensure that elective course content meets the standards set herein.

The Board of Elementary and Secondary Education reserves the authority to require local school systems to submit documentation regarding the course content, approval process, and/or course evaluation of any approved elective. The Board further reserves the right to rescind local authority to approve electives for a school system not in compliance with Standards for Locally-Initiated Electives.

REVISE: Standard 1.105.37 Adding Elective Courses to the Program of Studies

Standard 1.105.37

A school system choosing to add an elective/exploratory course to its program of studies shall establish policy and procedures for reviewing and approving courses that meet State Standards for Locally-Initiated Electives as established by the State Board of Elementary and Secondary Education.

Refer to Standards 1.090.11-15 for State Standards for Locally-Initiated Electives.

DELETE: Standard 1.105.39

Interested persons may submit comments until 4:30 p.m., November 9, 1999 to: Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—State Standards for Locally
Initiated Electives**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation of changes requires no further cost or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no effects on competition and employment.

Marlyn Langley
Deputy Superintendent
9909#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Opportunity Program for Students (TOPS)
Renewal Application Deadline Extension
(LAC 28:IV.503)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS). This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

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

**Chapter 5. Application; Application Deadlines and
Proof of Compliance**

§503. Application Deadlines

A. - A.4....

B. Final Deadline. The final deadline for receipt of a student's initial application for state aid is July 1 of the high school academic year (which includes the Fall, Spring and Summer sessions) in which a student graduates. To renew an award in subsequent years, annual applications must be received by the July 1 deadline. Any student submitting an application for state aid in a subsequent year received after the July 1 deadline will not be processed, and the student will not be eligible for an award in that year. For example, for a student graduating in the 1998-99 high school academic year, the student must submit an application (the Free Application for Federal Student Aid) to be received by the federal processor by July 1, 1999, and must submit an application to be received by the July 1 deadline for every year thereafter in which the student desires to renew the award. Students who received a TOPS award during academic year 1998-99 and who must file the FAFSA for academic year 1999-2000 to renew their awards, have until September 15, 1999 for their application to be received by the federal processor.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:655 (April 1999), LR 25:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., October 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Tuition Opportunity Programs for
Students (TOPS)—Renewal Application
Deadline Extension**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$100. Costs for funding for TOPS awards are not anticipated to increase as a result of this rule change.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated to result from this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Students who received TOPS during academic year 1998-99 and who must file the FAFSA for academic year 1999-2000 to renew their awards will have until September 15, 1999 for their applications to be received by the federal processor.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
9909#004

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Air Fee Revisions
(LAC 33:III.207, 209, 211, and 223)(AQ195)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.207, 209, 211, and 223 (Log #AQ195).

The purpose of this proposed rule is to incorporate fees for industry categories not previously in the Fee Schedule, but for which fees have previously been established under the negotiated fee procedures of the fee regulations. The rule change also includes changes in wording to make existing regulations easier to interpret. The changes will not increase any fee paid but should make the fee regulations easier to read and understand. The basis and rationale for this rule are to make the regulations easier to understand and implement. These changes are being made to address part of the fee

regulations that the department and external users of the fees have found difficult to understand.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Program

§207. Application Fees

No application or amendments thereto shall be processed prior to payment of a permit fee. No permit, license, registration, or variance, unless otherwise authorized by the secretary, shall be issued until the full amount of the fee has been paid and such check or draft has been accepted by the bank or drawee and the department's account has been credited with the amount of the fee.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:610 (September 1988), LR 19:1373 (October 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§209. Annual Fees

All parties conducting activities for which an annual fee is provided shall be subject to the payment of such fee by the due date indicated on the invoice. The annual fees are based on a state fiscal year from July 1 to June 30.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), LR 19:1373 (October 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§211. Methodology

A. Formula to Apportion Fees

Air Toxics Permit Application Fee (Based on Type of Facility and on Rated Production Capacity/Throughput)	Surcharge of 10 Percent of the Permit Application Fee to be Charged When There is an Increase in Air Toxics Emissions Above the Minimum Emission Rates (MER) Listed in LAC 33:III.5112.Table 51.1
Air Toxics Annual Emission Fee (based on Air Toxic Pollutants emitted)	Variable
Annual Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Variable
New Application Fee (based on type of facility and on rated production capacity/throughput)	Variable

Major and Minor Modification Modified Permit Fee (based on type of facility and on rated production capacity/throughput)	Variable
PSD Application Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 50 percent of the application fee when a PSD permit application is being processed
"NESHAP" Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 25 percent of the Annual Maintenance Fee for that particular process/plant to be added to the Annual Maintenance Fee
"NSPS" Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 25 percent of the permit application fee to be charged for any permit application that includes the addition of new equipment subject to NSPS regulation

* * *

[See Prior Text in B]

1. All fees required by this Chapter are listed in LAC 33:III.223, Fee Schedule Listing, which shall be referred to as the Fee Schedule in the remainder of this Chapter. All persons required to obtain a new or modified permit shall be subject to a permit application fee (see Fee Schedule). This fee shall be submitted with any application for a new or modified permit. The annual maintenance fee for a new or modified source shall be paid during the fiscal year (July 1 to June 30) in which the process specified in the permit comes on line.

2. The Standard Industrial Classification (SIC) codes listed in the Fee Schedule shall be used to assist in the determination of the proper fees to assess.

3. The permit fee for sources or facilities with multiple processes shall be equal to the total amounts required by the individual processes involved, as listed in the Fee Schedule, unless the entire facility is covered by a single fee category.

* * *

[See Prior Text in B.4-5]

6. If a process is not listed in the Fee Schedule and is not a source type exempted from fees by this regulation, then the department shall assign a fee based on the most similar processes in the Fee Schedule and negotiated separately. If a process or facility is specifically listed in the Fee Schedule, then the fee cannot be negotiated. The department shall analyze each permit request to determine the number of processes involved and the permit fee associated with each.

7. Annually, the department shall reevaluate the Fee Schedule based upon the previous fiscal year's reasonable costs involved in the operation of the permit system and submit such revised schedule to the secretary for approval.

8. When a company withdraws its application and claims refund for the permit fee, no refund shall be made if the review of the application is essentially completed at the time of withdrawal. However, up to 50 percent refund may be made when the review has been initiated, but is not essentially completed.

9. Annual maintenance fees (AMF) are not prorated. If a facility operates any part of a year or at a reduced rate during the year, the full annual maintenance fee is still charged. In order for the annual maintenance fee to be

cancelled, the facility must not operate at all during the year and the permit to operate for the facility must be cancelled and/or changes must be made to the process or facility in order to make the process or facility not subject to regulation by the department. The cancellation of the permit shall require that a new permit be issued before the facility could be operated again. Failure to pay the annual maintenance fee will cause the permit for the facility covered by the fee to be cancelled.

10. When a permanent shutdown occurs and a company properly notifies the department, by official change in the Emission Inventory Questionnaire (EIQ) and permit, then the maintenance fee would be dropped for that shutdown portion of the process/plant. This fee reduction or cancellation shall apply only in the fiscal years in which the shutdown portion of the plant or process did not operate at all. The EIQ and permit shall also need to be changed to delete the emissions from the shutdown portion of the plant or process before the start of the fiscal year in which the fee would have been charged.

11. For most fees listed in these regulations, the minor modification fee is equal to the annual maintenance fee (AMF). The major modification fee is three times the AMF, and the new application fee is five times the AMF. Minimum and maximum permit fees shall apply to all categories that have minimum and maximum AMF according to the following table.

Permit Fees	Minimum	Maximum
Minor modification	min. AMF	max. AMF
Major modification	3 x min. AMF	3 x max. AMF
New application	5 x min. AMF	5 x max. AMF

If the above ratio was not used to establish the major modification and new application fees for a category, then the actual ratio of major modification and new application fee to AMF shall be used.

12. NSPS fees may be waived when a PSD application fee is imposed.

13. The department shall determine the type of fee. This determination shall be based on the work load created by the permit application and shall be determined based on the factors described as follows:

a. New Application Fee. The new application fee shall be based on the new capacity when a new process or operation is added or the incremental increase in capacity when the capacity is increased by more than 80 percent. It applies when:

- i. a new facility is added;
 - ii. a new operation in an existing facility is added;
- and
- iii. an existing operation is expanded by more than 80 percent in capacity.

b. Major Modification Fee. The major modification fee shall be based on the existing capacity when the capacity is increased by more than 40 percent and less than 80 percent. The applicant has the option to choose to base the major modification fee on the incremental capacity increase and using the new permit application rate in cases where the incremental increase is small compared to the existing

capacity. In that case, the applicant can choose the smaller fee as long as it is larger than the minimum major modification fee listed for the category. In all cases, the minimum amount of the fee would be equal to or greater than the minimum major modification fee for the category. The major modification fee applies when:

- i. the modification will trigger PSD review;
- ii. the modification would have triggered PSD review without the use of contemporaneous emission reductions or banked emissions;
- iii. the modification will increase emissions by 25 tons/year or more of nonattainment pollutant;
- iv. the modification will increase emissions by more than 10 tons/year of an individual toxic air pollutant/25 tons/year of total toxics air pollutants;
- v. the modification will change emissions over 100 tons/year of a criteria pollutant for which the standard has been attained; and
- vi. the modification will increase capacity of an existing operation at least by 40 percent and less than 80 percent.

c. Minor Modification Fee. The minor modification fee (based on existing capacity) applies when a modification is not qualified under new application fee or major modification fee. The minor modification fee shall be based on the existing capacity when the capacity is increased by less than 40 percent. The applicant has the option to choose to base the minor modification fee on the incremental capacity increase and using the new permit application rate in cases where the incremental increase is small compared to the existing capacity. In that case, the applicant can choose the smaller fee as long as it is larger than the minimum minor modification fee listed for the category. In all cases, the minimum amount of the fee would be equal to or greater than the minimum minor modification fee for the category.

d. If a permit modification is such that it does not increase capacity and changes emissions by less than 25 tons/year of all nonattainment pollutants, by less than 10 tons/year of an individual toxic air pollutant, by less than 25 tons/year of total toxic air pollutants, and by less than 100 tons/year of all other criteria (attainment) pollutants, then the permit fee shall be charged equal to the minimum minor modification permit fee for each fee process category involved.

e. Fee Schedule. LAC 33:III.223 does not list a minimum minor modification fee for many fee categories. The minimum minor modification fee for these categories shall be determined as follows:

- i. calculate 25 percent of the minor modification fee for the category;
- ii. if the calculated fee is greater than \$200, then use that amount as the minimum minor modification fee; and
- iii. if the calculated fee is less than \$200, then use \$200 as the minimum minor modification fee, unless the minor modification fee is less than \$200. If the minor modification fee is less than \$200, then the minimum minor modification fee would be equal to the minor modification fee.

f. Small Source Permit. The small source permit, as defined by LAC 33:III.503.B.2, applies when a permitted

source is not a major source. The permitted source must also emit and have the potential to emit less than 25 tons/year of any regulated pollutant.

14. Air Toxics Annual Emission Fees shall be assessed based on actual annual emissions that occurred during the previous calendar year.

15. For permits issued under LAC 33:III.507 (Title V permits) the following applies:

a. no application fee shall be charged for the initial permit provided no modifications are being made at the facility; and

b. no application fee shall be charged for renewals of permits issued provided no modifications are being made at the facility.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1373 (October 1993), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

§223. Fee Schedule Listing

FEE SCHEDULE LISTING						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
*** [See Prior Text in Fee Number 0010]						
0015 *Note 20*	Iron Ore Processing per Million Dollars in Capital Cost	1011	40.00	200.00	120.00	40.00
*** [See Prior Text in Fee Numbers 0020-0030]						
0040	Crude Oil and Natural Gas Production (Less than 100 T/Yr Source)	1311	68.00	340.00	204.00	68.00
0041	Crude Oil and Natural Gas Production (equal to or greater than 100 T/Yr and less than 250 T/Yr Source)	1311	114.00	573.00	344.00	114.00
0042	Crude Oil and Natural Gas Production 250 T/Yr to 500 T/Yr Source	1311	354.00	1769.00	1061.00	354.00
0043	Crude Oil and Natural Gas Production Greater than 500 T/Yr Source	1311	589.00	2358.00	1769.00	589.00
*** [See Prior Text in Fee Numbers 0050-0770]						
0773	Fiberglass Swimming Pools	NA	201.00	1003.00	602.00	201.00
*** [See Prior Text in Fee Numbers 0775-1190]						
1193	Commercial Laundry, Dry Cleaning, and Pressing Machines	3582	429.00	2148.00	1290.00	429.00
*** [See Prior Text in Fee Numbers 1195-1521]						
1525	Sanitary Landfill per Million Mg of Planned Capacity	4953 MIN	100.00 200.00	500.00 1000.00	300.00 600.00	100.00 200.00
*** [See Prior Text in Fee Numbers 1530-1590]						
1600	Bulk Loader: Over 100,000 Ton/Yr Throughput	5153	2864.00	14327.00	8596.00	2864.00
1610 *Note 14a*	Bulk Loader: Less than or equal to 100,000 and more than 25,000 Ton/Yr Throughput	5153	1433.00	7163.00	4298.00	1433.00
1611 *Note 14a*	Bulk Loader: 25,000 Ton/Yr or Less Throughput	5153	816.00	4082.00	2449.00	816.00
1612 *Note 14a*	Bulk Loader - No Grain or Dusty Materials Transfer	5153	544.00	2721.00	1632.00	544.00
*** [See Prior Text in Fee Numbers 1620-1720]						
1722	Small Source Permit	N/A	108.00	540.00	324.00	108.00

Additional Fees		
Fee Number	Fee Description	Amount
2000	Company Ownership/Operator Change or Name Change of an Existing Permit	113.00
2010	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions	226.00

Additional Fees		
Fee Number	Fee Description	Amount
2015 *Note 15*	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions for Small Business Sources	108.00
* * *		
[See Prior Text in Fee Numbers 2020-2914]		

Explanatory Notes for Fee Schedule
* * *

[See Prior Text in Note 1-12]

Note 13. Fees will be determined by aggregating actual annual emissions of each class of toxic air pollutants (as delineated in LAC 33:III.Chapter 51.Table 51.1) for a facility and applying the appropriate fee schedule for that class. Fees shall not be assessed for emissions of a single toxic air pollutant over and above 4,000 tons per year from a facility. The minimum fee for this category shall be \$100.

Note 14. Fees will not be assessed for emissions of a single criteria pollutant over and above 4,000 tons per year from a facility. Criteria fees will be assessed on actual annual emissions which occurred during the previous calendar year. The minimum fee for this category shall be \$100.

Note 14a. The throughput of these categories shall be based on the amount of grain or other materials that are known to produce significant amounts of particulate emissions. The determination of which materials or grains are considered as dusty materials is based on the material having similar emission factors to grain or having similar properties that can be used to estimate potential emissions.

* * *

[See Prior Text in Note 15]

Note 16. The choice of which program level applies is based on the highest level assigned to any process at the facility that applies at any time during the state fiscal year for which the invoice is being prepared (Program 3 being the highest). This annual maintenance fee is charged based on a state fiscal year from July to June.

* * *

[See Prior Text in Notes 17-Processing Timelines Table]

Note 20. This fee category applies to facilities that use a direct reduction process to process iron ore. The fees are based on the capital cost of the facility. In determination of fees for this fee category, the capital cost shall be used in the same manner as the capacity in other fee categories.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 30:2341 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December, 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496 (November 1997), LR 23:1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

A public hearing will be held on October 25, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed

amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ195. Such comments must be received no later than November 1, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ195.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Air Fee Revisions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no increase or decrease in cost to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collection for state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

James H. Brent, Ph.D.
Assistant Secretary
9909#061

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Lists of Hazardous Wastes
(LAC 33:V.Chapter 49)(HW068P)

(Editor's Note: The following rule, which appeared on pages 1541 through 1543 of the August 20, 1999 *Louisiana Register*, is being republished in its entirety to correct typographical errors.)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.Chapter 49.Appendix E (Log #HW068P).

DuPont Dow Elastomers L.L.C. has petitioned to exclude from the hazardous waste regulations (delist) a derived-from hazardous waste, known as Dynawave Scrubber Effluent, resulting from the combustion of non-specific source (i.e., spent solvent) listed hazardous wastes in a halogen acid furnace to produce aqueous hydrochloric acid. This waste stream is generated at DuPont's Ponchartrain Site in LaPlace, Louisiana. LAC 33:V.105.M allows a hazardous waste generator to petition the department for this kind of rulemaking when a listed hazardous waste does not meet any of the criteria that justified the original listing. Based on extensive testing, the department has determined that the nature of this material does not warrant retaining this material as a hazardous waste. The basis and rationale for this proposed rule are to grant the delisting petition based on the supporting documentation found in the 17-volume set dated and received on December 15, 1998, titled "Hazardous Waste Delisting Petition for Dynawave Scrubber Effluent" by DuPont Dow Elastomers L.L.C. of LaPlace, Louisiana. DuPont, the generator of the waste stream, has demonstrated through extensive sampling and analyses that this material, the Dynawave Scrubber Effluent, does not exhibit the hazardous properties that originally justified its listing as a hazardous waste.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

Appendix E - Wastes Excluded under LAC 33:V.105.M

Table E1 - Wastes Excluded	
Facility	Address
DuPont Dow Elastomers L.L.C.	LaPlace, LA
Waste Description	
Dynawave Scrubber Effluent is generated through the combustion of organic waste feed streams carrying the listed EPA Hazardous Waste Numbers F001, F002, F003, and F005. The specific hazardous waste streams being combusted and their EPA Hazardous Waste Numbers are: HCl Feed - D001, D002, and D007; Ponchartrain CD Heels - D001 and F005; Waste Organics - D001, D007, and F005; Catalyst Sludge Receiver (CSR) Sludge - D001, D007, and F005; Isom Purge - D001, D002, and F005; and Louisville CD Heels - D001, D007, D039, F001, F002, F003, and F005. DuPont Dow Elastomers must implement a sampling program that meets the following conditions for the exclusion to be valid:	
(1) - Testing: Sample collections and analyses, including quality control (QC) procedures, must be performed according to methodologies described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110.	
(1)(A) - Inorganic Testing: During the first 12 months of this exclusion, DuPont Dow must collect and analyze a monthly grab sample of the Dynawave Scrubber Effluent. DuPont Dow must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for chromium, nickel, and zinc, including quality control information. If the department and DuPont Dow concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), then DuPont Dow may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.	
(1)(B) - Subsequent Inorganic Testing: Following concurrence by the department, DuPont Dow may substitute the following testing conditions for those in condition (1)(A). DuPont Dow must continue to monitor operating conditions and analyze samples representative of each year of operation. The samples must be grab samples from a randomly chosen operating day during the same month of operation as the previous year's sampling event. These annual representative grab samples must be analyzed for chromium, nickel, and zinc. DuPont Dow may, at its discretion, analyze any samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.	
(1)(C) - Organic Testing: During the first 30 days of this exclusion, DuPont Dow must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the organic constituents listed in condition (3)(B) below. After completing this initial sampling, DuPont Dow shall sample and analyze for the organic constituents listed in condition (3)(B) on an annual basis.	
(1)(D) - Dioxins and Furans Testing: During the first 30 days of this exclusion, DuPont Dow must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the dioxins and furans in condition (3)(C) below. After completing this initial sampling, DuPont Dow shall sample and analyze for the dioxins and furans in condition (3)(C) once every three years to commence three years after the initial sampling.	

(2) - Waste Handling:

Consequent to this exclusion, the Dynawave Scrubber Effluent becomes, on generation, nonhazardous solid waste and may be managed and disposed of on the DuPont Dow plant site in any one of three permitted underground deep injection wells. With prior written authorization from the department, alternative disposal methods may be either a Louisiana Pollution Discharge Elimination System/National Pollution Discharge Elimination System (LPDES/NPDES) permitted outfall or a permitted commercial underground deep injection well. This newly delisted waste must always be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in any representative sample equal or exceed any of the delisting levels set in condition (3), the Dynawave Scrubber Effluent must be immediately resampled and reanalyzed for the constituent(s) that exceeded the delisting levels. If the repeat analysis is less than the delisting levels, then DuPont Dow shall resume the normal sampling and analysis schedule as described in condition (1). If the results of the reanalysis equal or exceed any of the delisting levels, then within 45 days DuPont Dow shall submit a report to the department that outlines the probable causes for exceeding the constituent level and recommends corrective action measures. The department shall determine the necessary corrective action and shall notify DuPont Dow of the corrective action needed. DuPont Dow shall implement the corrective action and resume sampling and analysis for the constituent per the schedule in condition (1). Within 30 days after receiving written notification, DuPont Dow may appeal the corrective action determined by the department. During the full period of corrective action determination and implementation, the exclusion of the Dynawave Scrubber Effluent shall remain in force unless the department notifies DuPont Dow in writing of a temporary rescission of the exclusion. Normal sampling and analysis shall continue through this period as long as the exclusion remains in force.

(3) - Delisting Levels:

The following delisting levels have been determined safe by taking into account health-based criteria and limits of detection. Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V. 4903.E. Concentrations in the extract must be less than the following levels (all units are milligrams per liter):

(3)(A) - Inorganic Constituents:

Chromium - 2.0; Nickel - 2.0; Zinc - 200.

(3)(B) - Organic Constituents:

Acetone - 80; Chlorobenzene - 2.0; Chloroform - 0.2; Chloroprene - 14; Ethylbenzene - 14; Methylene Chloride - 0.1; Styrene - 2.0; Toluene - 20; Xylenes - 200.

(3)(C) - Dioxins and Furans

The 15 congeners listed in Section 1.1 of EPA Publication Number SW-846 Method 8290 - Monitor only.

(4) - Changes in Operating Conditions or Feed Streams:

If DuPont Dow either significantly changes the operating conditions specified in the petition or adds any previously unspecified feed streams and either of these actions would justify a Class 3 modification to their combustion permit, DuPont Dow must notify the department in writing. Following receipt of written acknowledgement by the department, DuPont Dow must collect a grab sample and analyze it for the full universe of constituents found in 40 CFR part 264, appendix IX - Ground Water Monitoring List (LAC 33:V.3325). If the results of the appendix IX analyses identify no new hazardous constituents, then DuPont Dow must reinstitute the testing required in condition (1)(A) for a minimum of 12 monthly operating periods. During the full period described in this condition, the delisting of the Dynawave Scrubber Effluent shall remain in force unless a new hazardous constituent is identified or the waste volume exceeds 25,000 cubic yards per year; at this time the delisting petition shall be reopened. DuPont Dow may eliminate feeding any stream to the combustion unit at any time without affecting the delisting of the Dynawave Scrubber Effluent or the sampling schedule.

(5) - Data Submittal:

DuPont Dow must notify the department in writing at least two weeks prior to initiating condition (1)(A). All data obtained to fulfill condition (1) must be submitted to the Assistant Secretary of the Office of Environmental Services, LDEQ, 7290 Bluebonnet Blvd, Baton Rouge, LA 70810, within 60 days after each sampling event.

Records of operating conditions and analytical data from condition (1) must be compiled, summarized, and maintained on site for a minimum of three years. These records and data must be furnished upon request by the department and made available for inspection. Failure to submit the required data within the specified time period or failure to maintain the required records on-site for the specified time shall be considered by the department, at its discretion, sufficient basis to revoke the exclusion. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In the event that any of this information is determined by the department, in its sole discretion, to be false, inaccurate, or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had been in effect or to the extent directed by the department and that the company will be liable for any actions taken in contravention of the company's environmental obligations under the Louisiana Environmental Quality Act premised upon the company's reliance on the void exclusion."

[See Prior Text in Marathon Oil Co.]

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 20:1000 (September 1994), amended LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

A public hearing will be held on September 27, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by HW068P. Such comments must be received no later than October 4, 1999, at 4:30 p.m., and should be sent to Patsy Deville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW068P.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

9909#014

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Penalty Determination Methodology (LAC 33:I.705)(OS033)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.705 (Log #OS033).

This proposed rule is to reflect Act 791 of the 1999 Regular Session, which amended R.S. 30:2025(E)(1)(a) and changed the civil penalty maximum daily cap from \$25,000 to \$27,500. Through Act 791 the civil penalty maximum daily cap was changed by 10 percent. This rule will revise the maximum civil penalty for violation of environmental law from \$25,000 to \$27,500 for each day of violation. The basis and rationale for this rule are to reflect the changes made to the maximum daily cap for penalties by Act 791 of the 1999 Regular Session of the Louisiana Legislature.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33 ENVIRONMENTAL QUALITY Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures Chapter 7. Penalties

§705. Penalty Determination Methodology

A. A penalty range for each penalty event is calculated based on the two violation-specific factors. The two violation-specific factors are plotted on the penalty matrix to determine a penalty range for a particular penalty event (see Table 1). The various penalty ranges for a penalty event are found inside each cell of the penalty matrix.

Degree of Risk/Impact to Human Health or Property	Nature and Gravity of the Violation		
	Major	Moderate	Minor
Major	\$27,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
Moderate	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
Minor	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

* * *

[See Prior Text in A.1 - J]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025 and 2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:658 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:

A public hearing will be held on October 25, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS033. Such comments must be received no later than November 1, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS033.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Penalty Determination Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are expected as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect on revenue collections of state or local governmental units is anticipated. However, whenever major violations of environmental law warrant the assessment of civil penalties at the maximum rate, the department will receive a 10 percent increase for those collected penalties.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Major violators of environmental law may be assessed a 10 percent increase in civil penalties.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected as a result of this rule.

James H. Brent, Ph.D.
Assistant Secretary
9909#063

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**Underground Storage Tank Late Fees
(LAC 33:XI.307)(UT006)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Underground Storage Tanks regulations, LAC 33:XI.307 (Log #UT006).

Act 349 of the 1999 Regular Session of the Louisiana Legislature, R.S. 30:2195.3(A)(7) and (B), repealed the late fee payment for new and used motor oil underground storage tanks and required that late fees be established by rule. This proposed rule amends the UST fee schedule in Chapter 3 to incorporate into the regulations, fees that were previously established by statute. This amendment will subject all annual UST fees to department late payment fees previously promulgated in accordance with the Environmental Quality Act and Administrative Procedure Act. This change does not add any new fees. This change, which lists all UST fees, both statutory and regulatory, in the UST regulations, will also assist the regulated community in determining its annual fee obligations. The basis and rationale for this proposed rule are to make all UST annual fees subject to the department's existing late fee regulations.

This proposed rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§307. Fee Schedule

A. Applicability. These regulations apply to registered UST systems, regardless of their operational status.

B. Annual Fees

1. Fees are assessed according to the following schedule:

Fee Number	Annual Registration Fee	Amount
001	All registered UST systems	\$45
Annual Maintenance and Monitoring Fees		
002	UST systems containing any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1)	\$500
003	UST systems at federal facilities (all categories except USTs defined in Fee Number 002, which shall be assessed the higher fee)	\$120
004	UST systems containing petroleum products not meeting the definition of motor fuels	\$120
005	UST systems containing new or used motor oil (except USTs identified in LAC 33:XI.1101.C and D)	\$275

* * *

[See Prior Text in B.2 - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, 2195.3 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25.

A public hearing will be held on October 25, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by UT006. Such comments must be received no later than November 1, 1999, at 4:30 p.m., and should be sent to Patsy Deaville,

Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of UT006.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Underground Storage Tank Late Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation cost or savings to state or local governmental units are expected as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is difficult to calculate the effect on revenue collections since this late payment fee is dependent on failure to pay. However, the effect is expected to be minimal.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No economic costs and/or benefits to directly affected persons are expected as a result of this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition and employment is expected as a result of this rule.

James H. Brent, Ph.D.
Assistant Secretary
9909#058

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Pharmacy

Automated Medication System
(LAC 46:LIII.Chapter 12)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., and the Pharmacy Law R.S. 37:1182, the Louisiana Board of Pharmacy hereby gives notice to adopt LAC 46:LIII.Chapter 12.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 12. Automated Medication System

§1201. Definitions

Automated Medication System—includes, but is not limited to, a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, or delivery of medications, and which collects, controls, and maintains all transaction information. An automated medication system may be profile driven, non-profile driven, or a combination of both.

1. *Profile Driven* system requires that medication orders/prescriptions be reviewed by the pharmacist for appropriateness, dosage, and contraindications prior to, or concomitantly with, being entered into the system, and before access is allowed into the system for medication administration.

a. *Non-Profile Driven* system does not require prior or concomitant pharmacist review of medication orders/prescriptions in order to gain access to the system for medication administration. A non-profile driven system may include, but is not limited to, a night drug cabinet, emergency drug kit, or floor stock/first dose cabinet.

b. *Floor Stock/First Dose Cabinet* is a medication storage device, which shall be used by personnel, authorized by a protocol established by the pharmacist-in-charge, to gain access to doses as needed and first doses in patient-care areas. In addition, a floor stock/first dose cabinet may be used to store medications in such specialty areas including, but not limited to, emergency room, surgery suite, and endoscopy suite.

Final Checks of Work—is the requirement that only a pharmacist supervises and releases the completed product prepared by a pharmacy technician.

On-Site Facility—means and refers to the location of a building that houses a board permitted pharmacy.

Off-Site Facility—means and refers to the location of a building that houses a licensee of the Department of Health and Hospitals, but which does not house a board permitted pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1203. Automated Medication System

Automated Medication System may be utilized only by pharmacies permitted by the board and/or health care facilities licensed by the Department of Health and Hospitals as defined in §1227.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1205. Pharmacist-in-Charge Responsibilities

The pharmacist-in-charge shall be a Louisiana-licensed pharmacist and has the following responsibilities:

1. assuring that the system is in good working order and accurately provides the correct strength, dosage form and quantity of the drug prescribed while maintaining appropriate record-keeping and security safeguards;
2. establishment of a quality assurance program prior to implementation of a system and the supervision of an ongoing quality assurance program that monitors appropriate use and performance of a system, which is evidenced by written policies and procedures developed by the pharmacist-in-charge;
3. as provided in §1227, apply to the board for registration of system 30 days prior to installation. Said application shall include, but not limited to:
 - a. Louisiana-permitted pharmacy's name, address, and pharmacy permit number;
 - b. name, address and location, if different from the address of the pharmacy;
 - c. system manufacturer, model; and
 - d. pharmacist-in-charge name and Louisiana pharmacist license number;
4. provide 30 days written notice to the board of removal of the system;
5. define access to the system in policy and procedures of the pharmacy, in compliance with state and federal regulations;
6. assign, discontinue or change access to the system;
7. ensure that access to the medications complies with state and federal regulations as applicable; and
8. ensure that the system are stocked/restocked accurately and in accordance with established written pharmacy policies and procedures;
9. the pharmacist-in-charge shall maintain or have access to all records of documentation specified in this Section for 2 years or as otherwise required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1207. Pharmacist Review

System shall be used only in settings that ensure medication orders are reviewed by a pharmacist prior to administration and in accordance with established policies and procedures and good pharmacy practice. A policy and procedure protocol shall be adopted to retrospectively review medications which cannot be reviewed prior to administration, as provided in R. S. 46:1209.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1209. Policies and Procedures

The development of an Automation Medication System Policy and Procedures is the responsibility of the pharmacist-in-charge, who shall submit the complete Automation Medication System Policy and Procedures to the board for approval, on request. These policy and procedures shall be reviewed by the pharmacist-in-charge, at least annually and modified if needed, and such review documented. They shall include, but are not be limited to, the following:

1. criteria for selection of medications to be stored in each system;
2. criteria for medications qualifying for use with a non-profile driven system and the locations and situations that this type of system can be used in;
3. information on the system as outlined below:
 - a. access;
 - i. system entry;
 - ii. access codes;
 - iii. system access privileges;
 - iv. changing access privileges;
 - v. termination of user;
 - vi. temporary access codes;
 - vii. password assignment;
 - b. controlled substances;
 - i. chain of custody;
 - ii. discrepancy resolution;
 - c. data;
 - i. archiving;
 - ii. stored/uploading to database;
 - iii. backup;
 - d. definitions;
 - e. downtime procedures (see malfunction);
 - f. emergency procedures;
 - g. information security/confidentiality;
 - i. patient information;
 - ii. medication information;
 - iii. transaction files;
 - iv. information update plan;
 - v. patient update plan;
 - vi. information access;
 - h. inspection;
 - i. installation requirements;
 - j. maintenance;
 - i. service and repair protocols;
 - k. medication administration;
 - i. medication and patient validation;
 - ii. administration verification;
 - l. medication security;
 - i. security management and control;
 - ii. medication loading and storage;
 - iii. medication loading records;
 - iv. medication containers;
 - v. cross contamination;
 - vi. lot number control;
 - vii. inventory;
 - viii. utilization review;
 - ix. research;
 - m. malfunction;
 - i. troubleshooting;
 - ii. power failure;
 - n. quality assurance/quality improvement;
 - i. documentation and verification of proper loading and refilling of device;
 - ii. proof of delivery;
 - iii. removal of drugs for administration, return, or waste;
 - iv. chain of custody of controlled substances (institutions);
 - v. recording, resolving, and reporting of discrepancies;

vi. periodic audits to assure compliance with policies and procedures;

- o. reports;
 - i. system maintenance;
 - ii. administrative functions;
 - iii. inventory;
 - iv. error;
 - v. discrepancies;
 - vi. activity;
 - vii. problem;
- p. medication inventory;
 - i. management;
- q. staff education and training;
- r. system set-up.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy LR:

§1211. Quality Assurance

The quality assurance documentation for the use and performance of the system shall monitor for safety, accuracy, and security in accordance with policies and procedures pursuant to R.S. 46:1209.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1213. Documentation

Documentation as to type of equipment, serial number, content, policies and procedures and location shall be maintained on-site in the pharmacy for review by the board. Such documentation shall include, but is not limited to:

1. name, address, and permit number of the pharmacy or licensed health care facility where the system is operational;
2. manufacturer's name and model;
3. quality assurance policy and procedures to determine continued appropriate use and performance of the system;
4. policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, controlled substances, data retention, definitions, downtime, procedures, emergency or first dose procedures, inspection, installation requirements, maintenance security, quality assurance, medication inventory, staff education and training, system set-up and malfunction procedures; and
5. a current copy of all pharmacy policies and procedures related to the use of the system shall be maintained at all off-site facility locations where the system is being used, as well as the pharmacy of the pharmacist-in-charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1215. Records

Records and/or electronic data kept by system shall meet the following requirements:

1. All events involving access to the contents of the system shall be recorded electronically.
2. These internal records shall be maintained for one year by the pharmacist-in-charge and shall be readily available to the board. Such records shall include:

- a. identity of system accessed;
- b. identification of the individual accessing the system;
- c. type of transaction;
- d. name, strength, dosage form, and quantity of the drug accessed;
- e. name of the patient, or identification numbers for whom the drug was ordered;
- f. identification of the certified pharmacy technician or pharmacist stocking or restocking the medications in the system; and
- g. such additional information as the pharmacist-in-charge may deem necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1217. Security System(s)

System shall have adequate security system and procedures, evidenced by written pharmacy policies and procedures, to:

1. prevent unauthorized access or use;
2. comply with any applicable federal and state regulations; and
3. maintain patient confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1219. Stocking and Restocking

A. On-Site Facility System(s). The stocking and restocking of all medications in the on-site system shall be accomplished by Louisiana-licensed pharmacist and/or Louisiana certified pharmacy technician under the supervision of Louisiana-licensed pharmacists. A pharmacist must conduct final checks of work of the work performed by a pharmacy technician. The pharmacy shall have a mechanism in place to identify the pharmacy technician stocking or restocking and the pharmacist checking the accuracy of the medications to be stocked or restocked in the system.

B. Off-Site Facility System. The stocking and restocking of all medications in the off-site system shall be accomplished by Louisiana-licensed pharmacists, however, the pharmacy technician may stock or restock an off-site facility system provided a pharmacist is physically present at the off-site facility and supervises and verifies the stocking and/or restocking prior to use. The pharmacy shall have a mechanism in place to identify the pharmacy technician stocking or restocking and the pharmacist checking the accuracy of the medications to be stocked or restocked in the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1221. Packaging and Labeling

All containers of medications stored in the system shall be packaged and labeled in accordance with federal and state laws and regulations and contain an established satisfactory beyond use date based on U.S.P. Standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1223. Proof of Use

For medication removed from the system for patient administration, the system shall document the following information:

1. name of the patient or resident;
2. patient's or resident's medical record number or identification number, or room and bed number;
3. date and time medication was removed from the system;
4. name, initials, or other unique identifier of the person removing the drug; and
5. name, strength, and dosage form of the medication or description of the medical device removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1225. Wasted, Discarded, or Unused Medications

The system shall provide a mechanism for securing and accounting for wasted, discarded, or unused medications removed from the system according to policies and procedures, and existing state and federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1227. System(s) Registration

The entire system shall be registered by the board and facilities shall meet the following conditions:

1. facility shall be licensed by Department of Health and Hospitals and/or the board;
2. registration fee for a facility not permitted by the board is as identified in 37:1182(A)(19);
3. no registration fee will be assessed to a board permitted pharmacy;
4. registration period. Registration expires annually on June 30;
5. Initial Application. The initial application is available from the board. Said application shall be completed and signed by the administrator of the facility and the pharmacist-in-charge of the System(s). The completed, signed application and required fee shall be submitted to the board office 30 days prior to installation of system;
6. Annual Renewal. The board shall mail an application for renewal to each registrant on or before May 1 each year. Said application shall be completed, signed, and, with annual renewal fee, returned to the board office to be received on or before June 1 each year;
7. Expired. A registration that is not renewed shall be null and void. A renewal application for an expired registration shall be requested by the pharmacist-in-charge and the completed, signed application may be referred to the board's Reinstatement Committee for disposition in accordance with R.S. 37:1187;
8. Reinstatement. The holder of a registration that has expired may be reinstated only upon written application to the board and upon payment of all lapsed fees and a penalty to be fixed by the board. Other conditions of reinstatement may be required at the discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1229. Inspection

System records shall be available and readily retrievable for board inspection and review during regular working hours of operation. The system themselves are also subject to inspection at that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1231. Out-of-State Pharmacies

Out-of-State Pharmacies shall apply for registration of any system to be placed in this state. Out-of-state pharmacies must have applied for and been issued an out-of-state pharmacy permit by the board as identified in regulations. Out-of-state pharmacies must have the proper pharmacy permit issued by the state in which they reside in order to utilize a system in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

§1232. Violations; Penalties

The board may refuse to issue or renew, or may revoke, summarily suspend, suspend, place on probation, censure, reprimand, issue a warning against, or issue a cease and desist order against, the licenses or the registration of, or assess a fine/civil penalty or costs/administrative costs against any person pursuant to the procedures set forth in LAC 46:LIII.375, for any violation of the provisions of this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR:

This rule shall take effect on July 1, 2000.

Any person may submit data, views or positions orally or in writing to the Louisiana Board of Pharmacy as indicated above. Under the provisions of the Administrative Procedure Act, if a public hearing is necessary, it will be held from 10:00 A.M. to 12:00 Noon, Monday November 29, 1999 at the Board of Pharmacy Office, 5615 Corporate Blvd, Suite 8E, Baton Rouge, LA 70808, 504-925-6496.

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency rule.

Family Impact Statement

1. Implementation of this proposed rule will have no known effect on the stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed rule will have no known effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family. Implementation of this proposed rule will have no known effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed rule will have no known effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed rule will have no known effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of this proposed rule will have no known effect on the ability of the family or a local government to perform the function as contained in the proposed rule.

Malcolm Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Automated Medication System(s)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost associated with the implementation of the proposed rule Chapter 12 Automated Medication System(s) will be the cost of printing and distribution of the new rule. It is estimated that the register cost of \$300, printing cost of \$1,100, and postage for distribution at \$940 or a total of \$2,340.00 for FY 99/00.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenues of approximately \$3,000 for FY 00-01 would be collected by the Louisiana Board of Pharmacy. Annually the Board shall require registration fees for the entire Automated Medication System(s). The registration process was authorized by Act 767 of the 1999 Legislative Session. Registration fees will be required for all **non-permitted facilities** that are licensed by the Department of Health and Hospitals at a fee of \$150.00. Facilities that are licensed by the Department of Health and Hospitals and permitted by the Louisiana Board of Pharmacy would be exempt from registration fees due to the fact that these facilities submit permit fees on an annual basis. Registration would be for tracking purposes.

The Board of Pharmacy anticipates receiving Automated Medication System(s) registration fees from non-permitted facilities that are licensed by the Department of Health and Hospitals. There are 471 facilities presently licensed in that category. The Board has not identified facilities that would require a registration at this time.

It is anticipated that approximately 4 percent of these facilities would utilize Automated Medication System(s) in FY 00-01. It is anticipated that approximately 10 percent of these facilities would utilize Automated Medication System(s) in FY 01-02. Based on these assumptions, the Board projects that revenues will be approximately \$3,000 for FY 00-01, and \$7,050 for FY 01-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Department of Health and Hospitals licenses 471 facilities (correctional facilities, rural hospitals, nursing homes, etc.). These 471 facilities may voluntarily register annually at a fee of \$150.00 with the Board. The Board has not been able to determine the costs and/or economic benefits to these directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are 1,445 permitted pharmacy locations in Louisiana. In that total 593 permits have been issued to independent

pharmacy classifications and 505 chain pharmacy classifications. These 1,098 permitted sites employ approximately 2,196 Louisiana licensed pharmacists and 3,294 support staff personnel.

The Department of Health and Hospitals licenses 471 facilities (correctional facilities, rural hospitals, nursing homes, etc.). These locations are not permitted or regulated by the Louisiana Board of Pharmacy. These locations all require prescription medications delivered daily/weekly at the facility. These requirements are being satisfied by an unidentified percentage of the 1,098 permitted community pharmacy locations throughout the state

It is anticipated that approximately 4 percent of these facilities would utilize Automated Medication System(s) in FY 00-01. It is anticipated that approximately 10 percent of these facilities would utilize Automated Medication System(s) in FY 01-02. The proliferation of these systems may increase competition for facility prescription services. Conceptually a location could own and operate an Automated Medication System(s). This rule requires pharmacist review and supervision.

Community pharmacy has traditionally met the prescription demands of facilities licensed by the Department of Health and Hospitals. Effects on competition and employment cannot be anticipated at this time. Employment is not expected to increase as a result of the proposed rule

Malcolm Broussard
Executive Director
9909#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

Fees; Certificate Renewal; Late Charge
(LAC 46:LXXXV.809 and 811)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.809 and 811 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq. No preamble has been prepared. The proposed rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 8. Registered Veterinary Technicians

§809. Fees

A. The board hereby adopts and establishes the following fees:

Examination fee, pre-examination, state or national (this fee does not include vendor's cost)	\$40
Original certificate fee	\$30
Annual renewal of certificate fee	\$30
Application fee	\$25

B. The examination fee shall be exclusive of vendor costs which must also be paid by the examinee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:227 (March 1990), amended LR 25:

§ 811. Certificate Renewal; Late Charge

A. - B. ...

C. Any application for renewal of a certificate of approval and/or any payment of the annual renewal of certificate fee which is postmarked after September 30 of each year shall be subject to all accrued fees and an additional late fee of \$20 per fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:227 (March 1990), amended LR 25:

Interested parties may submit written comments to Kimberly Barbier, administrative director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on October 20, 1999. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on October 27, 1999, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third St., Suite 104, Baton Rouge, LA.

Kimberly B. Barbier
Administrative Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Fees; Certificate Renewal; Late Charge

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated \$120). Registered veterinary technicians will be informed of this rule change via the board's regular newsletter or other direct mailings, which are already a budgeted cost of the board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed fees are not expected to have an impact until the 2000-2001 year (certificate renewals will not take place again until July 1, 2000, and almost all original certificates will be issued for the 2000-2001 year after the date on which the proposed fees would become effective). The anticipated increase in agency-self generated funds for FY00-01 is based on the following:

Category	Current Revenue	Proposed Revenue	Net Effect
Annual renewal of certificate fee	45 x \$25 = \$1,125	45 x \$30 = \$1,350	\$225
Original certificate fee	10 x \$25 = \$250	10 x \$30 = \$300	\$50
Examination fee (fee does not include vendor's cost)	10 x \$40 = \$400	10 x \$40 = \$400	\$0
Application Fee	\$0	10 x \$25 = \$250	\$250
Certificate Renewal Late Fee	1 x \$10 = \$10	1 x \$20 = \$20	\$10
Total	\$1,785	\$2,320	\$535

The additional revenue in subsequent FYs is projected to be the same.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Registered veterinary technicians, applicants, and examinees will be affected by the proposed action. The net cost effect on each category is illustrated in item II above. There will be no new paperwork required.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change.

Kimberly B. Barbier
Administrative Director
9909#039

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Sanitary Code—Plumbing (Chapter XIV)

The Department of Health and Hospitals, Office of Public Health (DHH-OPH) proposes to amend Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana. This proposed rule change will replace in its entirety Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana, promulgated September 20, 1992. The new Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana is proposed to be comprised of the 1994 edition of the Standard Plumbing Code® as modified by the 1999 Louisiana Amendments to the 1994 Standard Plumbing Code®. The 1994 Standard Plumbing Code® is a copyrighted document published by the Southern Building Code Congress International, Inc. (SBCCI) and is recognized as one of several national model plumbing codes. Upon adoption as a final rule, the SBCCI will incorporate the 1999 Louisiana Amendments into the text of their 1994 Standard Plumbing Code® and will print a separate copyrighted document called the "Louisiana State Plumbing Code." The SBCCI will sell the "Louisiana State Plumbing Code" at the same price as they currently sell the 1994 Standard Plumbing Code®, i.e., \$38.00 to a SBCCI member and \$57.00 to a SBCCI non-member.

This rule is proposed to be adopted by the state health officer in accordance with R.S. 40:4, approved by the secretary of the Department of Health and Hospitals in accordance with R.S. 40:2, under the general powers and jurisdiction of the state health officer and the Office of Public Health in accordance with R.S. 40:5, and promulgated in accordance with R.S. 49:950 et seq. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The proposed rule is as follows:

**Sanitary Code, State Of Louisiana
Chapter XIV (Plumbing)
14:001 Adoption of Louisiana State Plumbing Code**

The Department of Health and Hospitals, Office of Public Health hereby adopts Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana to be comprised of the

1994 edition of the Standard Plumbing Code[®] as modified by the 1999 Louisiana Amendments to the 1994 Standard Plumbing Code[®]. The 1994 Standard Plumbing Code[®] is a copyrighted document published by the Southern Building Code Congress International, Inc.(SBCCI) and is recognized as one of several national model plumbing codes. Upon adoption as a final rule, SBCCI will incorporate the 1999 Louisiana Amendments into the text of their 1994 Standard Plumbing Code[®]. After the Office of Public Health has proofread and approved the combined document to ensure accuracy and consistency with the 1999 Louisiana Amendments, SBCCI will print a separate copyrighted document entitled the "Louisiana State Plumbing Code." The "Louisiana State Plumbing Code" shall be synonymous to "Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana."

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 18:618 (June 1992), LR 25:

14:002 Availability

Information concerning purchasing copies of the Louisiana State Plumbing Code may be obtained by contacting the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, (205) 591-1853 or by contacting the Chief Sanitarian, Office of Public Health, 6867 Bluebonnet Blvd. - Box 9, Baton Rouge, LA 70810, tel (225) 763-5553 or fax (225) 763-5552.

In addition, the Office of Public Health will purchase at least 33 copies of the Louisiana State Plumbing Code to be given to the Office of the State Library for distribution to various libraries designated as a recorder of state documents. Copies will be provided to the following libraries: LSU-BR, La Tech, UNO, LSU-Shreveport, McNeese, USL, NE La Univ., N.O. Public, NW La Univ., Nicholls, SE La Univ., Jefferson Parish Public (E & W), La College, Nunez Comm., Loyola, Southern-BR, Southern Univ. Law, SUNO, Shreve Memorial, Loyola Law, LSU Medical, Delgado, La Supreme Court, E.B.R. Public, Legislative Library, Grambling, Tulane, Library of Congress, State Library-BR, and the Recorder of State Documents in the Office of State Library. This will enable the general public to review and otherwise have accessibility to the document without the need to individually purchase a copy.

Copies of the Louisiana State Plumbing Code will also be provided to and may be reviewed (pursuant to a request to review public record) at the Office of Public Health's Division of Environmental Health's Central Office in Baton Rouge, any of the 9 Regional Engineering/Sanitarian offices, or any of the 64 Parish Health Unit Sanitarian offices generally between the hours of 8:00 a.m. and 4:30 p.m. on regular work days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the

Department of Health and Hospitals, Office of Public Health, LR 18:618 (June 1992), LR 25:

14:003 Effective Date

This rule shall become effective on [3 months following promulgation as a final rule].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 18:618 (June 1992), LR 25:

14:004 1999 Louisiana Amendments

The 1999 Louisiana Amendments to the 1994 Standard Plumbing Code[®] are attached as follows (numerical citations comport with 1994 Standard Plumbing Code[®] format):

These amendments can be viewed at any Office of Public Health regional office or at the Division of Environmental Health's central office. (See addresses in the following Summary paragraph.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 18:618 (June 1992), LR 25:

Summary of Proposed Rule Making

This proposed amendment of Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana (i.e., the Louisiana State Plumbing Code) updates materials of construction and standards referenced in the code, incorporates practices applicable to Louisiana conditions, and provides for consistency with other Chapters of the Louisiana Sanitary Code.

A Plumbing Code Revision Committee has held 37 meetings over more than a three-year period to develop this proposed Louisiana State Plumbing Code. This committee is composed of representatives from the Office of Public Health, DHH's Engineering and Consulting Division, the Louisiana State Plumbing Board, the Louisiana Association of Plumbing, Heating and Cooling Contractors, a city/parish plumbing inspector, and a sanitary engineer. In addition, representatives of OPH's Sanitarian Services Section were in attendance at many of the meetings and provided input to the committee on behalf of the Chief Sanitarian on an ex officio basis.

Due to copyright laws, the Office of Public Health is unable to publish or distribute copies of the 1994 Standard Plumbing Code[®]. Copies of the 1994 edition of the Standard Plumbing Code[®] may be obtained by contacting the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, (205) 591-1853. Any person may review copies of the 1994 edition of the Standard Plumbing Code[®] (and the 1999 Louisiana Amendments to the 1994 Standard Plumbing Code[®]) at any of the Office of Public Health regional offices and at the Office of Public Health's Division of Environmental Health Central Office between the hours of 8 a.m. and 4:30 p.m. on regular work days. The locations of the Office of Public Health offices are as follows: Region I, Plaza Towers Annex

Bldg., 1001 Howard Ave. - Suite 100A, New Orleans, (504) 599-0102; Region II, 1772 Wooddale Blvd., Baton Rouge, (225) 925-7230; Region III, 106 Canal Blvd., Thibodaux, (504) 449-5007; Region IV, 825 Kaliste Saloom Rd., Brandywine III Bldg., Suite 100, Lafayette, (318) 262-5318; Region V, 4240 Sen. J. Bennett Johnston Ave., Lake Charles, (318) 491-2149; Region VI, 1500 Lee St., Alexandria, (318) 487-5186; Region VII, 1525 Fairfield Ave., Room 566, Shreveport, (318) 676-7485; Region VIII, 2913 Betin St., Monroe, (318) 362-5246; Region IX, 21454 Koop Drive, Suite 1C, Manville, (504) 871-1331; Division of Environmental Health Central Office, Blanche Appleby Computer Complex Bldg. (on the Jimmy Swaggart Ministry Campus), 6867 Bluebonnet Blvd. - Suite 201, Baton Rouge, (225) 763-5553.

Copies of the 1999 Louisiana Amendments to the 1994 Standard Plumbing Code[®] may be obtained by contacting the Chief Sanitarian, Office of Public Health, 6867 Bluebonnet Blvd. - Box 9, Baton Rouge, LA 70810, tel (225) 763-5553 or fax (225)763-5552.

The Department of Health and Hospitals will conduct a public hearing at 10 a.m. on Tuesday, October 26, 1999, in Room 118 of the Blanche Appleby Computer Complex Bldg. (on the Jimmy Swaggart Ministry Campus), 6867 Bluebonnet Blvd., Baton Rouge. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than October 29, 1999 at COB, 4:30 p.m., and should be submitted to R. Douglas Vincent, Chief Engineer, Office of Public Health, 6867 Bluebonnet Blvd. - Box 3, Baton Rouge, LA 70810 or faxed to (225) 765-5040.

David Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sanitary Code—Plumbing**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Since this proposed rule essentially updates and replaces an existing rule, the additional cost to state governmental units is expected to be only approximately a total of \$16,654. This will cover the cost of publication in the *Louisiana Register*, reformatting the rule by the Southern Building Code Congress International, Inc. (SBCCI) to an 8 1/2 x11", 2 column format, and purchasing of at least 255 copies of the Louisiana State Plumbing Code for staff, libraries designated as recorders of state documents, etc.

Essentially, the cost to local governmental units will be the cost of purchasing one or more copies of the Louisiana State Plumbing Code at a basic rate of \$38.00 for SBCCI members and \$57.00 for SBCCI non-members. SBCCI offers quantity discounts to members when 5 or more copies are purchased.

In accord with LSA-R.S. 40:14, the local governmental water supplier (or local plumbing inspection department) would now be authorized and could decide to enact a local comprehensive backflow prevention device testing ordinance on their own using the proposed new state rule as their basis.

Should the local governmental water supplier/plumbing inspection department choose to ensure compliance with this rule within their water supply and/or plumbing jurisdiction, additional funds would have to be expended to maintain a paper trail of when a backflow prevention device was tested, the results of such testing, when the backflow prevention device was repaired or replaced, the name of the tester, etc., as well as possibly a tickler for future testing. These additional, optional steps which may be enacted by local governmental water suppliers/plumbing inspection departments are encouraged by the state for the enhancement of the protection of public health; however, since these additional steps are not specifically required by the proposed rule, an attempt to estimate the cost to local governmental water suppliers/plumbing inspection departments will not be attempted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is not expected to be any effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Plumbers, architects, engineers, contractors, and other individuals requiring a copy of the Louisiana State Plumbing Code are expected to expend \$38.00 per copy if they are a member of SBCCI or \$57.00 per copy if they are a non-member of SBCCI.

The proposed new rule will allow owners of service stations to realize an economic benefit since the Minimum Plumbing Fixture requirements for many such service stations is proposed to be reduced.

The proposed rule will require that certain types of backflow prevention devices be tested no less frequently than annually (and more often in certain circumstances). It is estimated that the cost for such testing may range between \$125-\$175 per device (depending upon the size of the device). The owner of the device shall be responsible for paying for the testing and record keeping. The number of testable backflow prevention devices statewide is estimated at 20,000; therefore, the total fiscal impact of backflow prevention device testing is estimated to be between \$2.5M - \$3.5M annually (assuming a 100% compliance rate with the rule as written). It is estimated that it may take as many as 5 years before the 100% compliance rate is approached; therefore, the total fiscal impact for the first full FY (2000-2001) would be expected to be \$0.5M - \$0.75M. (*Note: One could equate this requirement to the annual testing of fire extinguishers. Backflow prevention devices must be properly tested and maintained in an attempt to ensure proper functioning at the time of need!*)

All new fire protection/sprinkler systems will be required to be protected against backflow of contaminants into the potable water supply by installation of at least a double check valve assembly. Most fire protection/sprinkler systems are currently required to have this minimal protection; however, several types of installations are currently allowed to be installed without any backflow prevention (with the caveat that the entire fire protection/sprinkler system is installed using potable water piping materials). The proposed rule will eliminate future potential health hazard situations by requiring that all new fire protection/sprinkler systems have a minimum of a double check valve assembly. In accord with section 1:011 of the Louisiana State Sanitary Code, existing fire protection/sprinkler systems are not expected to be affected by this new rule unless (a) substantial renovation of the building or facility is undertaken, or (b) where the ownership thereof or the business therein changes subsequent to the effective date of the new rule, or (c) where it is determined that a serious health threat to the public exists.

Since fire protection/sprinkler systems are generally installed directly to the water main without a water meter, most water suppliers would probably require a somewhat special double check valve assembly called a "double check detector assembly". The "double check detector assembly" device for fire sprinkler systems costs approximately \$1350 for a 3" diameter valve and approximately \$4750 for a 10" diameter valve (with varying sizes and prices in between - the size being dependent upon the flow/pressure requirements of the installation which is generally related to the size of the building and the amount of fire protection/sprinkler coverage to be provided.) This estimate does not include costs for installation or testing. It is felt that this portion of the proposed rule will have minimal fiscal impact since most fire protection/sprinkler systems are not installed using potable water piping materials and are therefore already required to have double check valve assembly protection.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is expected to stimulate employment and competition in the private sector relative to the need for certified backflow prevention device testers or others (found to be acceptable to the Plumbing Official or water supplier).

Jimmy Guidry, M.D.
Assistant Secretary
9909#073

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Sanitary Code—Sewage Disposal (Chapter XIII)
(LAC 48:V.Chapter 75)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend Paragraph 6.5 of Appendix A of Chapter 13 (Sewage Disposal) of the Louisiana Sanitary Code, pursuant to R.S. 40:4, as amended by Acts 1978, No. 786; Acts 1982, No. 619; Acts 1986, No. 885; Acts 1988, No. 942.

The amendment to this paragraph of the Louisiana Sanitary Code will extend for one year the final date for compliance with a newer standard for the testing, evaluation, and approval of residential mechanical wastewater treatment plants, and conforms with the recommendation of the Governor's Task Force on Individual Wastewater Treatment Systems. This proposed rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

Paragraph 6.5 of Appendix A of Chapter 13 (Sewage Disposal) of the Louisiana Sanitary Code is revised to read as follows:

**Sanitary Code
Chapter XIII. Sewage Disposal
APPENDIX A
Regulations Controlling the Design and Construction
of Individual Sewage Systems**

VI. Mechanical Waste Water Treatment Plants

A:6.5 All individual mechanical plants currently approved for installation in Louisiana as of the effective date of these

regulations shall not be required to meet the requirements of paragraph 6.4 until January 1, 2001. Until January 1, 2001, plants shall continue to comply with the standards under which they were approved. Effective January 1, 2001, all plants shall comply with the standard as stated in paragraph 6.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of Public Health, LR 10:802 (October 1984); LR 11:1086 (November 1985); LR 19:49 (January 1993); LR 25:49 (January 1999), LR 25:

Comments regarding the proposed rule should be addressed to: Bobby G. Savoie, Executive Director, Division of Environmental Health Services, 6867 Bluebonnet Blvd., Baton Rouge, LA 70810. A public review hearing will be held on October 27, 1999 at 10:00 a.m. in Room 230 of the Division of Environmental Health Services, 6867 Bluebonnet Blvd., Baton Rouge, LA.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Sanitary Code—Sewage Disposal

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed action will cost the agency approximately \$160.00 for implementation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A portion of the revenue increases to both state and local governmental units previously projected as a result of increased state/local sales tax collections associated with increased costs of mandatory wastewater systems requirements would be delayed for one year. This results in previously anticipated revenue collections being REDUCED by approximately \$4500 per year (\$2250 during the remainder of the current fiscal year).

The previously projected revenue increases associated with state and local sales tax and ad valorem tax collections (where applicable), which are being delayed for one year, are due to increased fabrication costs as a result of mandatory wastewater systems requirements. These previously projected increases were based upon the 15,000 wastewater systems affected annually, with a projected cost associated with mandatory requirements of \$5 per system, and an average projected state/local sales tax and ad valorem tax(es) of approximately 6 percent.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Cost to consumer groups (individuals and businesses) who utilize individual mechanical wastewater treatment systems addressed by the proposed rule would remain unaffected for one additional year. The previously projected average additional cost to an affected consumer (of approximately \$125) would be delayed for a year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The action will delay the previously projected increased competition and employment in the private sector. Related providers of goods and services addressed by the proposed

action will also remain unaffected until the newly proposed implementation date.

Jimmy Guidry, M.D.
Assistant Secretary
9909#075

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

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule as authorized by LA. 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.

The Department of Health and Hospitals, Bureau of Health Service Financing currently provides coverage for durable medical equipment under the Medicaid Program. All medical equipment, appliances and supplies must be prior authorized in order to determine medical necessity. Currently, augmentative and alternative communication devices are prior authorized for rental or purchase under the durable medical equipment program according to specific criteria set forth in the Medicaid Eligibility Manual. However, only recipients under the age of 21 are eligible to receive these devices (*Louisiana Register*, Volume 22, No. 5). Therefore, effective June 5, 1999, the Department determined that it was necessary to amend the current rule regarding prior authorization of augmentative communication devices by removing the age restriction for rental or purchase by eligible recipients, which ensured availability to recipients of all ages, and by expanding the criteria for consideration of these devices for prior authorization (*Louisiana Register*, Volume 25, No. 6). Therefore, the Department proposes to adopt the following rule to continue the provisions of the June 5, 1999 rule in force.

In accordance with Act #1183 of 1999, the Department of Health and Hospitals/Bureau of Health Services Financing hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: this proposed rule has no known impact on family formation, stability, or autonomy as described in R.S.49:972(B).

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing removes the age restriction for rental or purchase of augmentative and alternative communication devices for eligible recipients and expands the criteria for consideration of these devices for prior authorization under the Durable Medical Equipment Program.

I. Definitions

Augmentative and Alternative Communications (AAC) Devices—electronic or non-electronic aids, devices, or

systems that assist a Medicaid recipient to overcome or ameliorate (reduce to the maximum degree possible) the communication limitations that preclude or interfere with meaningful participation in current and projected medically necessary daily activities. Examples of AAC devices include:

1. communication boards or books, speech amplifiers, and electronic devices that produce speech and/or written output;
2. devices that are constructed for use as communication devices as well as systems that may include a computer, when the primary use of the computer serves as the recipient's communication device; and
3. related components and accessories, including software programs, symbol sets, overlays, mounting devices, switches, cables and connectors, auditory, visual, and tactile output devices, printers, and necessary supplies, such as rechargeable batteries.

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

Speech-Language Pathologist—an individual who has:

1. been licensed by the Louisiana Board of Examiners for Speech Pathologists and Audiologists;
2. a Certificate of Clinical Competence in speech language pathology from the American Speech-Language-Hearing Association;
3. completed the equivalent educational requirements and work experience necessary for the certificate; or
4. completed the academic program and is acquiring supervised work experience to qualify for the certificate.

II. Recipient Criteria

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

A. Medical Necessity Determinations

1. The following medically necessary conditions shall be established for recipients who/whose:
 - a. have a diagnosis of a significant expressive or receptive (language comprehension) communication impairment or disability;
 - b. impairment or disability either temporarily or permanently causes communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities; and
 - c. had a speech-language pathologist (and other health professional, as appropriate):
 - i. perform an assessment and submit a report pursuant to the criteria set forth in sub-section B. Assessment/Evaluation; and
 - ii. recommend speech-language pathology treatment in the form of AAC devices and services; and
 - iii. document the mental and physical ability of a recipient to use, or learn to use, a recommended AAC device and accessories for effective and efficient communication; and
 - iv. prepare a speech-language pathology treatment plan that describes the specific components of the AAC devices and the required amount, duration, and scope of the

AAC services that will overcome or ameliorate communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities; and

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

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

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

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

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

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

B. Assessment/Evaluation

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

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

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

a. identifying information:

- i. name;
- ii. Medicaid identification number;
- iii. date of the assessment;
- iv. medical and neurological; diagnoses (primary, secondary, tertiary);
- v. significant medical history;
- vi. mental or cognitive status; and
- vii. educational level and goals.

b. sensory status:

- i. vision and hearing screening (no more than one year prior to AAC evaluation);
- ii. if vision screening is failed, a complete vision evaluation;
- iii. if hearing screening is failed, a complete hearing evaluation;

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

c. postural, mobility, & motor status:

- i. gross motor assessment;
- ii. fine motor assessment;
- iii. optimal positioning;
- iv. integration of mobility with AAC devices;
- v. recipient's access methods (and options) for AAC devices;

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

- i. identification and description of the recipient's expressive or receptive (language comprehension) communication impairment diagnosis;
- ii. speech skills and prognosis;
- iii. language skills and prognosis;
- iv. communication behaviors and interaction skills (i.e., styles and patterns);
- v. functional communication assessment, including ecological inventory;
- vi. indication of past treatment, if any;
- vii. description of current communication strategies, including use of an AAC device, if any.

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

e. communication needs inventory:

- i. description of recipient's current and projected communication needs;
- ii. communication partners and tasks including partners' communication abilities limitations, if any; and
- iii. communication environments and constraints which affect AAC device selection and/or features (e.g., verbal and/or visual output and/or feedback; distance communication needs).

f. Summary of Communication Limitations.

Description of the communication limitations that preclude or interfere with meaningful participation in current and projected daily activities (i.e., why the recipient's current communication skills and behaviors prevent meaningful participation in the recipient's current and projected daily activities).

g. AAC devices assessment components:

- i. vocabulary requirements;
- ii. representational system(s);
- iii. display organization and features;
- iv. rate enhancement techniques;
- v. message characteristics, speech synthesis, printed output, display characteristics, feedback, auditory and visual output;
- vi. access techniques and strategies; and
- vii. portability and durability concerns, if any.

h. identification of AAC devices considered for recipients:

- i. identification of the significant characteristics and features of the AAC devices considered for the recipient; and
- ii. identification of the cost of the AAC devices considered for the recipient (including all required components, accessories, peripherals, and supplies, as appropriate).

- i. AAC device recommendation
 - i. identification of the requested AAC devices including all required components, accessories, software, peripheral devices, supplies, and the device vendor;
 - ii. identification of the recipient's and communication partner's AAC devices preference, if any;
 - iii. assessment of the recipient's ability (physically and mentally) to use, or to learn to use, the recommended AAC device and accessories for effective and efficient communication;
 - iv. justification stating why the recommended AAC device (including description of the significant characteristics, features, and accessories) is better able to overcome or ameliorate the communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities, as compared to the other AAC devices considered;
 - v. justification stating why the recommended AAC device (including description of the significant characteristics, features, and accessories) is the least costly, equally effective, alternative form of treatment to overcome or ameliorate the communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities.
 - j. treatment plan and follow-up:
 - i. description of short term communication goals (e.g., 6 months);
 - ii. description of long term communication goals (e.g., 1 year);
 - iii. assessment criteria to measure recipient's progress toward achieving short and long term communication goals;
 - iv. description of amount, duration, and scope of AAC services required for the recipient to achieve short and long term communication goals; and
 - v. identification and experience of AAC service provider responsible for training (these service providers may include, e.g.: speech-language pathologists, occupational therapists, rehabilitation engineers, the recipient's parents, teachers and other service providers).
 - k. summary of alternative funding source for AAC device:
 - i. description of availability or lack of availability, of purchase of AAC device through other funding sources.

C. Trial Use Periods

1. In instances where the appropriateness of a specific AAC device is not clear, a trial use period for an AAC device may be recommended (although it is not required) by the speech-language pathologist who conducts the AAC evaluation.
2. Prior authorization for rental of AAC devices shall be approved for trial use periods when the speech-language pathologist prepares a request consistent with the established requirements. The reasons for a trial use period request include, but are not limited to:
 - a. the characteristics of the recipient's communication limitations;
 - b. lack of familiarity with a specific AAC device; and

c. whether there are sufficient AAC services to support the recipient's use of the AAC device, or other factors.

3. If the speech-language pathologist recommends a trial use period, the pathologist must prepare a request that includes the following information:

- a. the duration of the trial period;
- b. the speech-language pathologist information and the recipient information as required in B. Assessment/Evaluation;
- c. the AAC device to be examined during the trial period, including all the necessary components (e.g., mounting device, software, switches, or access control mechanism);
- d. the identification of the AAC service provider(s) who will assist the recipient during the trial period;
- e. the identification of the AAC services provider(s) who will assess the trial period; and
- f. the evaluation criteria, specific to the recipient, that will be used to determine the success or failure of the trial period.

4. Trial use period requests must request Medicaid funding for the rental of all necessary components and accessories of the AAC device. If an accessory necessary for the trial use of a device by a recipient is not available for rental, but the communication device is available for rental for trial use, Medicaid may consider the purchase of the accessory for the trial use of the communication device by that recipient.

5. Trial periods may be extended and/or different AAC devices provided, when requested by the speech-language pathologist responsible for evaluating the trial use period.

6. Results of trial use periods must be included with any subsequent request for prior authorization of purchase of the AAC device. Recommendations for the purchase of an AAC device, as a result of a trial use period of the device, must clearly indicate the patient's ability to use the device during the trial period.

D. Repairs

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

a. Providers of AAC devices are expected to comply with the Louisiana New Assistive Devices Warranty Act.

i. One of the provisions of this law is that all persons who make, sell, or lease assistive devices, including AAC devices, must provide those who buy or lease the equipment with a warranty which lasts at least one year from the time the equipment is delivered to the customer.

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

b. Medicaid additionally requires providers to provide the recipient with a comparable, alternate AAC

device while repairing the recipient's device during a warranty period.

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

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

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

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

a. whether there have been any significant changes in the sensory status (e.g., vision, hearing, tactile); postural, mobility or motor status; speech, language, and expressive communication status; or any other communication need or limitation of the recipient as described in B.2. (b through g, and j); and

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

E. Replacement or Modification

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

a. requests for modification or replacement of AAC devices and/or accessories may be considered for coverage after the expiration of three (3) or more years from the date of purchase of the current device and accessories in use.

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

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

d. requests for replacements of identical AAC devices must be accompanied by a statement from the provider that the current device can not be repaired or that replacement will be more cost effective than repair of the current device. Data must be provided about the following:

i. age;

ii. repair history;

(a). frequency,

(b). duration, and

(c). cost; and

iii. repair projections (estimated durability of repairs).

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

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

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

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

III. Prior Authorization

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

B. Medicaid will not consider purchase of an AAC device when an alternative means of funding through another agency or other source (e.g., Louisiana Rehabilitation Services, school systems, private insurance, etc.) is available for the recipient. All requests should indicate the availability, or lack of availability, of purchase through other funding sources.

C. When the medical necessity cannot be determined for an AAC device pursuant to the criteria stated above and to the information submitted in support of a prior authorization request, the following steps shall be taken:

a. If Medicaid determines that any essential information in establishing medical necessity for the AAC device is incomplete, or has been omitted in the prior authorization request as required in sub-section B. Assessment/Evaluation, Medicaid will make direct contact with the speech-language pathologist who conducted the assessment for the recipient. Medicaid will then identify the specific, additional information that is needed and request that the additional information be submitted; and/or

b. If Medicaid determines that an additional interpretation of information in the prior authorization request is needed by the medical reviewer in establishing medical necessity for an AAC device, Medicaid will seek the advice of speech language pathologist(s) with extensive AAC experience recommended to Medicaid by the American Speech Language & Hearing Association (ASHA), the United States Society for Augmentative & Alternative Communication (USSAAC), and/or the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA), who shall provide the required interpretation.

i. Only one request for additional information by direct contact with the speech/language pathologist and/or only one interpretation will be made per prior authorization request;

ii. If additional information requested by Medicaid from the speech/language pathologist who conducted the assessment, or if an additional interpretation requested from a consulting speech-language pathologist, is not received by Medicaid within the 25 day time frame required of Medicaid for a prior authorization determination, a decision will be made by the medical reviewer for

Medicaid based on the information that has been submitted with the prior authorization request and on the reviewer's interpretation of that information. If the additional information or additional interpretation is provided at a later time, another request will need to be submitted by the provider to the Prior Authorization Unit for additional review.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, September 28, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Durable Medical Equipment
Program—Augmentative and Alternative
Communication (AAC) Devices**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase costs in the Durable Medical Equipment Program by approximately \$18,970 for SFY 1999-00, \$18,964 for SFY 2000-01, and \$19,508 for SFY 2001-02. Included in SFY 1999-00 is \$1,066 (\$533 SGF and \$533 FED) for the state's administrative expense of promulgating this proposed rule and final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$44,152 for SFY 1999-00, \$44,954 for SFY 2000-01, and \$46,328 for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule shall ensure the availability of augmentative and alternative devices for rental or purchase to Medicaid recipients who meet the criteria. This proposed rule will result in an increase in reimbursements to providers of Durable Medical Equipment of approximately \$62,056 for SFY 1999-00, \$63,918 for SFY 2000-01, and \$65,836 for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9909#066

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**

**Hospital Prospective Reimbursement Methodology
Teaching Hospitals**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with 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 adopted a rule, June 20, 1994, that established the reimbursement of major and minor teaching hospitals as peer groups under the prospective reimbursement methodology for hospitals (*Louisiana Register*, Volume 20, Number 6).

The Department proposes to amend the criteria for participation in the peer groups for major and minor teaching hospitals and to adopt new criteria for the reimbursement of graduate medical education (GME) pursuant to Section 15 Schedule 09 of Act 19 of the 1998 Regular Legislative Session and R.S. 39:71 et seq.

This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the criteria for participation in the peer groups for major and minor teaching hospitals and adopts new criteria for the reimbursement of graduate medical education (GME).

I. Major Teaching Hospitals

A. The Louisiana Medical Assistance Program's recognition of a major teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education (LCME). These facilities must be a major participant in at least four approved medical residency programs. At least two of the programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry.

B. For the purposes of recognition as a major teaching hospital, a facility shall be considered a "major participant" in a graduate medical education program if it meets both of the following criteria:

1. the facility must pay for the costs of the training program in the non-hospital or hospital setting including the residents' salaries and fringe benefits, the portion of the cost of teaching physicians' salaries and fringe benefits attributable to direct graduate medical education and other direct administrative costs of the program; and

2. the facility must participate in residency programs that:

- a. require residents to rotate for a required experience, or
- b. require explicit approval by the appropriate Residency Review Committee (RRC) of the medical school with which the facility is affiliated prior to utilization of the facility, or
- c. provide residency rotations of more than one-sixth of the program length or more than a total of six (6) months at the facility and are listed as part of an accredited program in the Graduate Medical Education Directory of the Accreditation Council for Graduate Medical Education (ACGME).

C. Major teaching hospitals must maintain an intern and resident full time equivalency of at least thirty filled positions.

II. Minor Teaching Hospital

A. The Louisiana Medical Assistance Program's recognition of a minor teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education (LCME). These facilities must participate significantly in at least one approved medical residency program. At least one of these programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry.

B. For the purposes of recognition as a minor teaching hospital, a facility is considered to "participate significantly" in a graduate medical education program if it meets both of the following criteria:

1. the facility must pay for the costs of the training program in the non-hospital or hospital setting including the residents' salaries and fringe benefits, the portion of the cost of teaching physicians' salaries and fringe benefits attributable to direct graduate medical education and other direct administrative costs of the program; and

2. the facility must participate in residency programs that:

- a. require residents to rotate for a required experience, or
- b. require explicit approval by the appropriate Residency Review Committee (RRC) of the medical school with which the facility is affiliated prior to utilization of the facility, or
- c. provide residency rotations of more than one-sixth of the program length or more than a total of six (6) months at the facility and are listed as part of an accredited program in the Graduate Medical Education Directory of the Accreditation Council for Graduate Medical Education (ACGME). If not listed, the sponsoring institution must have notified the ACGME, in writing, that the residents rotate through the facility and spend more than one-sixth of the program length or more than a total of six (6) months at the facility.

C. Minor teaching hospitals must maintain an intern and resident full time equivalency of at least six filled positions.

III. Approved Medical Residency Program

A. An approved medical residency program is one that meets one of the following criteria:

1. counts toward certification of the participant in a specialty or sub-specialty listed in the current edition of

either The Directory of Graduate Medical Education Programs published by the American Medical Association, Department of Directories and Publications, or The Annual Report and Reference Handbook published by the American Board of Medical Specialties; or

2. is approved by the ACGME as a fellowship program in geriatric medicine; or

3. is a program that would be accredited except for the accrediting agency's reliance upon an accreditation standard that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangement for such training regardless of whether the standard provides exceptions or exemptions.

B. A residency program at a non-hospital facility may be counted by a hospital if:

1. there is a written agreement with the non-hospital facility that requires the hospital facility to pay for the cost of the training program; and

2. the agreement requires that the time that residents spend in the non-hospital setting is for patient care.

IV. Graduate Medical Education

A. In addition, the Bureau adopts new criteria for the reimbursement of graduate medical education (GME) in facilities that do not qualify as major or minor teaching facilities. GME recognized by the Medical Assistance Program for reimbursement shall be limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the LCME.

B. Payment for GME costs shall be limited to the direct cost of interns and residents in addition to the teaching physician supervisory costs. Teaching physician supervisory costs shall be limited in accordance with the provisions of the Medicare Provider Reimbursement Manual. The GME component of the rate shall be based on hospital specific graduate medical education Medicaid cost for the latest year on which hospital prospective reimbursements are rebased trended forward in accordance with the prospective reimbursement methodology for hospitals.

C. Hospitals implementing GME programs approved after the latest year on which hospital prospective reimbursements have been rebased shall have a GME component based on the first full cost reporting period that the approved GME program is in existence trended forward in accordance with the prospective reimbursement methodology for hospitals.

V. Requirements for Reimbursements

A. Qualification for teaching hospital status or to receive reimbursement for GME costs shall be reestablished at the beginning of each fiscal year.

B. To be reimbursed as a teaching hospital or to receive reimbursement for GME costs, a facility shall submit the following documentation within thirty days of the beginning of each state fiscal year to the Director, Institutional Reimbursement, P. O. Box 546, Baton Rouge, LA 70821:

1. a copy of the executed affiliation agreement for the time period for which the teaching hospital status or GME reimbursement applies;

2. a copy of any agreements with non-hospital facilities; and

3. a signed Certification For Teaching Hospital Recognition.

C. Each hospital which is reimbursed as a teaching hospital or receives reimbursement for GME costs shall submit the following documentation within ninety days of the end of each state fiscal year to the Director, Institutional Reimbursements, P. O. Box 546, Baton Rouge, LA 70821:

1. a copy of the Intern and Resident Information System (IRIS) report that is submitted annually to the Medicare intermediary; and

2. a copy of any notice given to the ACGME that residents rotate through a facility for more than one sixth of the program length or more than a total of six months.

D. Copies of all contracts, payroll records and time allocations related to graduate medical education must be maintained by the hospital and available for review by the state and federal agencies or their agents.

E. No teaching hospital shall receive a per diem rate greater than 115 percent of its facility specific cost based on the latest rebasing year trended forward to the rate year in accordance with the prospective reimbursement methodology for hospitals.

F. The peer group maximum for minor teaching hospitals shall be the peer group maximum for minor teaching hospitals or the peer group maximum for peer group five, whichever is greater.

G. If it is subsequently discovered that a hospital has been reimbursed as a major or minor teaching hospital and did not qualify for that peer group for any reimbursement period, retroactive adjustment shall be made to reflect the correct peer group to which the facility should have been assigned. The resulting overpayment will be recovered through either immediate repayment by the hospital or recoupment from any funds due to the hospital from the Department.

Interested persons may submit comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P. O. 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 Tuesday, October 26, 1999 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hospital Prospective Reimbursement Methodology Teaching Hospitals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce state program costs by approximately (\$904,339)

for SFY 1999-00, (\$2,791,138) for SFY 2000-01, and (\$2,870,996) for SFY 2001-02. Included in SFY 1999-00 is \$320 (\$160 SGF and \$160 FED) for the state's administrative expense of promulgating this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately (\$2,139,766) for SFY 1999-00, (\$6,616,135) for SFY 2000-01, and (\$6,818,495) for SFY 2001-02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will amend the criteria for recognition as a peer group under the major and minor teaching hospital prospective reimbursement methodology. Five hospitals previously recognized in the teaching hospital peer groups will now be recognized in the non-teaching peer groups. Hospitals satisfying the private teaching hospital peer group criteria will receive a reduction in reimbursements of approximately (\$3,044,425) for SFY 1999-00, (\$9,407,273) for SFY 2000-01, and (\$9,689,491) for SFY 2001-02.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9909#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 69—Year 2000 Exclusions
(LAC 37:XIII.8705, 8709, 8713-8717,
8721, 8725, 8727, 8731)

As authorized by Title 22:1 et seq. and in accordance with the provisions of LRS 49:950 et seq. of the Administrative Procedure Act, the Commissioner of Insurance proposes to amend Regulation 69, which governs the use of Year 2000 Exclusions in this state.

The regulation is being divided into subchapters. Subchapter A contains general provisions. Subchapter B applies only to the admitted market. Subchapter C contains the substantive provisions applicable to the surplus lines market. Subchapter D addresses administrative actions by the Commissioner. All references to reinsurers are being deleted.

Notwithstanding the revisions to this regulation, surplus lines insurers and reinsurers remain subject to all applicable parts of the Insurance Code, including but not limited to Part XXVI, and should act in accordance therewith. Insurers which engage in conduct which is not in the best interest of the public or the policyholder will result in the imposition of sanctions as authorized by law.

Therefore, the Commissioner hereby gives notice of his intent to adopt the following amendments to Regulation 69. This proposed rule has no known impact on family formation, stability, or autonomy as described in R.S. 49:972.

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 87. Regulation 69—Year 2000 Exclusions

Subchapter A. General Provisions

§8705. Scope and Applicability

A. The scope of application of this regulation differs depending on whether the insurer is an admitted insurer or a surplus lines insurer.

B. Admitted Insurers. Except for Subchapter C, this regulation applies to all admitted property and casualty insurance companies engaged in the business of insurance in this state and governs the use of Y2K exclusions whether issued before, on or after its effective date. It governs all Y2K exclusions affecting contracts of insurance delivered or issued for delivery in this state by admitted insurers which cover property risks or liability risks located in this state, or are to be performed in Louisiana regardless of where made or delivered.

C. Surplus Lines Insurers. Surplus lines insurers must comply with Subchapter C of this regulation. Subchapter B does not apply to surplus line insurers.

(Former subsection C is now the last sentence in subsection A.)

AUTHORITY NOTE: Promulgated in accordance with LRS 22:3., LRS 22:1262 and LRS 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 25:1256 (July 1999), LR 25:

§8709. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein:

Admitted Insurers—means any and all property and casualty insurers authorized to do business in this state pursuant to a Certificate of Authority duly issued by the Commissioner of Insurance for the State of Louisiana.

Commissioner—means the commissioner of insurance for the state of Louisiana.

* * *

Surplus Lines Insurers—means insurers placed on the list of approved unauthorized insurers maintained by the Commissioner of Insurance for the State of Louisiana in accordance with LRS 22:1262.1.

* * *

AUTHORITY NOTE: Promulgated in accordance with LRS 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999), LR 25:

Subchapter B. Admitted Insurers

§8713. Underwriting Standards

A. - A.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3. LRS 22:1211 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999), LR 25:

§8715. Monitoring of Market Conduct

A. ...

B. Any admitted insurer, which denies coverage or issues a reservation of rights letter to an insured based in toto or in part upon a Y2K exclusion in the policy must notify the LDOI. The notice must be provided to the LDOI within fifteen (15) days of the denial of coverage or issuance of the

reservation of rights letter. A copy of the denial of coverage letter or reservations of rights letter is sufficient notice.

C. The LDOI will closely monitor the use of Y2K exclusions to make certain that they are not used inappropriately by admitted insurers in underwriting or claimshandling. Examples of inappropriate activity are: blanket use of Y2K exclusions; failure to individually underwrite except when authorized by this Regulation; denial of claims inconsistent with underwriting standards; canceling or nonrenewing coverage as a general business practice; widespread unavailability of "buy back" coverage; and, unsupported blanket denial of claims based upon "lack of fortuity", or the "known risk" and/or "expected or intended" exclusions.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3; LRS 22:1211 et seq., LRS 22:1301 and LRS 22:1404.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999), LR 25:

§8717. Representations and Warranties

No representation or warranty may defeat coverage or be used to deny a claim by an admitted insurer unless the representation or warranty is (a) material (b) false) and (c) made with the intent to deceive. Questionnaires used to assess Y2K exposure are subject to this standard. Denial of coverage by an admitted insurer on the grounds that an answer in a questionnaire is erroneous or inadequate, in the absence of fraud, will result in disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3, LRS 22:619.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 25:

§8719. Notice

A. No insurance policy may be issued or renewed, by an admitted insurer, with a Y2K exclusion unless the insured is provided with a copy of the Y2K Notice prepared by the LDOI. (The text of the Notice can be found in Section 8719.C.)

B. Notice for renewals must be provided by an admitted insurer not less than sixty (60) days in advance to the insured and the agent of record.

C. Below is the notice required by this Section.

C.1 - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 25:

§8721. Exemptions

A. ...

B. Individual Insureds. An exemption may be granted upon written notification to the LDOI by an admitted insurer regarding an individual policyholder which poses an extraordinary risk due to its failure to take any steps to remedy its Y2K problem. Documentation that demonstrates the necessity for the exemption must be maintained in the insureds file for a period of five (5) years from the date of issuance of the exclusion.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 25:

Subchapter C. Surplus Lines Insurers
§8723. Mandatory Policyholder Notice

A. Every insurance contract issued or delivered as a surplus line coverage in this state, as provided in Part XXVII., Chapter 1. of Title 22 of the Louisiana Revised Statutes, which has a Y2K exclusion shall have attached to it the Policyholder Notice found in Subsection C. of this Section. Insurers are not precluded from issuing their own notices in conjunction with the mandatory notice.

B. Formatting instructions. The caption must be in large type and in bold. The text of the notice should be formatted as shown below and should be in a font of not less than 12 point type.

C. Policyholder Notice Text

IMPORTANT NOTICE FROM (COMPANY)
AND THE LOUISIANA DEPARTMENT OF INSURANCE
PLEASE READ IT!

A NEW ENDORSEMENT HAS BEEN ATTACHED TO YOUR
POLICY. THE NEW ENDORSEMENT DEALS WITH THE "Y2K"
PROBLEM.

USE OF THIS ENDORSEMENT IS GOVERNED BY
LOUISIANA DEPARTMENT OF INSURANCE
REGULATION 69.

IF YOU HAVE QUESTIONS ABOUT THE ENDORSEMENT OR THE
REGULATION YOU MAY CONTACT THE LOUISIANA
DEPARTMENT OF INSURANCE AT THE ADDRESS LISTED BELOW:

COMMISSIONER JAMES H. "JIM" BROWN
LOUISIANA INSURANCE BUILDING
950 NORTH FIFTH STREET
BATON ROUGE, LA 70802
OR BY TELEPHONE:
342-5900, 342-0895 OR 342-0896
1-800-259-5300 OR 1-800-259-5301

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3.and LRS 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§8725. Claims Notice

A. Every surplus lines insurer which denies coverage of a claim on the grounds that the claim is excluded in whole or in part by the policy's Y2K exclusion shall provide the insured and the claimant, if the claimant is not an insured, the notice found in subsection C of this section.

B. Formatting instructions. The caption must be in large type and in bold. The text of the notice should be formatted as shown below and should be in a font of not less than 12 point type.

C. Claim Notice Text

IMPORTANT NOTICE FROM LOUISIANA DEPARTMENT OF
INSURANCE
PLEASE READ IT!

POLICY No. _____
CLAIMANT: _____
CLAIM No. _____

COVERAGE FOR THIS CLAIM HAS BEEN DENIED BECAUSE
YOUR INSURER HAS DETERMINED THAT THE Y2K

ENDORSEMENT ATTACHED TO THE POLICY EXCLUDES
COVERAGE FOR THIS TYPE OF LOSS.

IF YOU QUESTION THE DENIAL OF COVERAGE, YOU MAY
CONTACT THE LOUISIANA DEPARTMENT OF INSURANCE AT THE
ADDRESS LISTED BELOW:

COMMISSIONER JAMES H. "JIM" BROWN
LOUISIANA INSURANCE BUILDING
950 NORTH FIFTH STREET
BATON ROUGE, LA 70802

OR BY TELEPHONE:
342-5900, 342-0895 OR 342-0896
1-800-259-5300 OR 1-800-259-5301

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3.and LRS 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

§8727. Issuance of Notices

Responsibility for the issuance of the notices required by Sections 8723 and 8725 of this subchapter may be delegated to the local surplus lines broker responsible for placing the coverage. Notwithstanding the foregoing, the surplus line insurer, upon request of the Commissioner, must be able to show that it has procedures in place to assure compliance with this subchapter.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3.and LRS 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:

Subchapter D. Administrative Actions

§8729. Hearings

Hearings, including investigatory hearings, which arise under the provisions of this regulation shall be conducted by the Commissioner.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3. LRS 22:1211 et seq., and LRS 22:1457.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 25:

§8731. Penalties

Upon proof of noncompliance with any applicable provisions of this regulation by an insurer, such disciplinary actions and/or penalties as are authorized by law, and in the manner provided thereby, may be imposed by the Commissioner.

AUTHORITY NOTE: Promulgated in accordance with LRS 22:2, LRS 22:3. LRS 22:1211 et seq., and LRS 22:1457.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), LR 25:

A copy of the proposed amendments to Regulation 69 may be obtained from the address below or by telephone at 225-342-4673. Copies may also be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, telephone no. 225-342-5015.

Interested parties may submit a request for a public hearing, or verbal or written comments, on the proposed amendments to: C. Noël Wertz, Senior Attorney, Box 94214, Baton Rouge, LA 70804-9214; telephone: 225-342-4632; fax 225-342-1632. The deadline to do so is 5:00 p.m., October 11, 1999.

The proposed amendments to the regulation are scheduled to become effective December 20, 1999.

James H. "Jim" Brown
Commissioner of Insurance

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 69—Year 2000 Exclusions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision to Regulation 69 should not result in any implementation costs or savings to local or state governmental units. The revision removes all references to reinsurers. The substantive provisions applicable to the surplus lines market are being set out in a separate subchapter.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Regulation 69 provides for the levy of penalties against companies and agents that violate the provisions of LSA-R.S. 22:2, 22:3, et seq. LRS 22:941, 22:1115, 22:1262.1 and 22:1457.215; however, there are not sufficient data available to determine the amount of revenue that might be generated as a result of those penalties.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revision to Regulation 69 might result in lower costs for surplus lines companies because they would not be required to capture certain information; however, it is impossible to quantify any cost savings that might result from this revision.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Regulation 69 is not expected to have any impact on competition and employment.

Craig S. Johnson
Deputy Commissioner
Management and Finance
9909#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Death Penalty (LAC 22:I.103)

In accordance with the Administrative Procedure Act, LSA-R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of intent to adopt amendments to regulations dealing with the Death Penalty.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 1. Secretary's Office

103. Death Penalty

A. - D.1. ...

2. All visits will terminate by 3:00 p.m. on the day of the execution except visits with a priest, minister, religious

advisor, or attorney which will terminate at the direction of the Warden or his designee.

E. Media Access

1. Pursuant to the provisions of Department Regulation No. C-01-013, the media may contact the Warden's office to request interviews. If the Warden, inmate, and attorney (if represented by counsel) consent, the interview shall be scheduled for a time convenient to the institution.

E.2 - F.3. ...

G. Execution Time and Place The execution shall take place at the Louisiana State Penitentiary between the hours of 6:00 p.m. and 11:59 p.m. [R.S. 15:570(C)].

H.1 - 2.b. ...

c. victim relationship witnesses are authorized to attend the execution [R.S. 15:570(D)];

H.2.c.i. ...

ii. At least ten days prior to the execution, the Secretary shall give either written or verbal notice, (followed by written notice placed in the United States mail within five days thereafter) of the date and time of execution to the victim's parents, or guardian, spouse and any adult children who have indicated to the Secretary that they desire such notice. The named parties shall be given the option of attending the execution and shall, within three days of their receipt of the notification, notify, either verbally or in writing, the Secretary's office of their intention to attend.

H.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 15:567-15:571 (as amended by Act Number 717 of the 1990 Regular Session of the Louisiana Legislature and by Act Number 159 of the 1991 Regular Session of the Louisiana Legislature), *Garret v. Estelle* 556 F.2d 1274 (5th Cir. 1977), is amending by Act Number 1260 of the 1997 regular session of the Legislature.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981), amended by the Department of Public Safety and Corrections, Corrections Services, LR 17:202 (February 1991), LR 18:77 (January 1992), LR 24:342 (February 1998), LR 25:

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, Box 94304, Capitol Station, Baton Rouge, Louisiana 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m. on October 20, 1999.

Richard L. Stalder
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE:**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated costs associated with this amendment as the rule has been previously adopted and implemented pursuant to LSA-R.S. 15:571.4 (B).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no additional costs or economic benefits directly affecting persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition or employment.

Bernard E. "Trey" Boudreaux
Undersecretary

9909#059

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Nongaming Suppliers; Imposition of Sanctions;
Supplier Permit Criteria
(LAC 42:XIII.1701, 2108, 2331, and 2325)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:XIII.1701, to add 42:XIII.2108 and 2331, and to amend 42:XIII.2325 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Chapter 17. General Provisions

§1701. Definitions

A. As used in the regulations, the following terms have the meanings described below.

Act—the Louisiana Riverboat Economic Development and Gaming Control Act.

Agent—any commissioned Louisiana state police trooper or designated employee of the Louisiana State Police, Riverboat Gaming Enforcement Division.

Applicant Records—those records which contain information and data pertaining to an applicant's criminal record, antecedents and background, and the applicant's financial records, furnished to or obtained by the division from any source incidental to an investigation for licensure, findings of suitability, registration, or other affirmative approval.

Architectural Plans and Specifications or Architectural Plans or Plans or Specifications—all of the plans, drawings, and specifications for the construction, furnishing, and equipping of a riverboat, including, but not limited to, detailed specifications and illustrative drawings or models depicting the proposed size, layout and configuration of the component parts of the vessel, including electrical and plumbing systems, engineering, structure, and aesthetic interior and exterior design as are prepared by one or more licensed professional architects and engineers. *Architectural Plans and Specifications* does not include *FF&E*, as defined in this Chapter.

Associated Equipment—any gaming equipment which does not affect the outcome of the game, except as otherwise provided in these regulations.

Berth—a location where a riverboat is or will be authorized to dock as provided in the act and regulations.

Business Year—the annual period used by a licensee for internal accounting purposes as defined and approved by the division.

Candidate—any person whom the division believes should be placed on the list of excluded persons.

Certification Fees—the fees charged by the division incidental to the certification of documents.

Certified Electronic Technician—qualified service personnel trained by a manufacturer, supplier, or other qualified entity, or through training programs approved by the division, who are capable of performing any repairs, parts replacements, maintenance, and other matters relating to servicing of devices.

Chip—a nonmetal or partly metal representative of value, redeemable for cash, and issued and sold by a licensee for use at the licensee's gaming establishment.

Component—any substantial or tangible part of a riverboat that must be built or made to complete construction of the riverboat or that must be modified for installation or use in or on the riverboat, including but not limited to engines, motors, boilers, generators, electrical systems and wiring, plumbing systems and apparatus, heating and cooling systems, custom-made furniture and fixtures. *Component* does not include *FF&E* as defined this Chapter.

Confidential Record—any paper, document or other record or data reduced to a record which is not open to public inspection.

Day—as used in these regulations shall mean a calendar day.

Designated Gaming Area—those portions of a riverboat in which gaming activities may be conducted, which shall be determined by measuring the area (in square feet) inside the interior walls of the riverboats, excluding any space therein in which gaming activities may not be conducted, such as bathrooms, stairwells, cage and beverage area, and emergency evacuation routes. Such designated gaming area shall not exceed 60 percent of the total square footage of the passenger access area of the vessel or 30,000 square feet, whichever is lesser, and plans, therefore, shall be submitted to and approved by the board.

Designated Representative—a person designated by the licensee to oversee and assume responsibility for the operation of the licensee's gaming business.

Designated River or Waterway—those rivers or bodies of water listed in the act upon which gaming activities may be conducted.

Division Surveillance Room—a room or rooms on each riverboat for the exclusive use of division agents.

Dock or Docking—to lower the gangplank to a pier or shore or to anchor a riverboat at a pier or shore, or both.

Dock Side Facility—the place where docking occurs and where one or more berths may be located.

Drop—

a. for table games, the total amount of money, chips, and tokens contained in the drop boxes.

b. for slot machines, the total amount of money and tokens removed from the drop box and the bill validator acceptor drop box, or for cashless slot machines, the amounts deducted from a player's slot account as a result of slot machine play.

Duplication Fees—a charge for duplicating documents for release to the requesting person.

Economic Interest or Interest—any interest in a licensee whereby a person receives or is entitled to directly receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other benefit. Economic interest in a licensee includes voting shares of stock or otherwise exercising control of the day to day operations of the licensee through a management agreement or similar contract. Economic interest does not include a debt unless upon review of the contract the division determines the obligee of such security has an economic interest in the licensee.

Electronic Fund Transfer—any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

Electronic Gaming Device—any mechanical or electrical device or machine which upon payment of consideration is available to play or operate, operation of which, whether by reason of the skill of the operator, or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive premiums, merchandise, tokens, redeemable game credits or anything of value other than unredeemable free games whether the payoff is made automatically from the machines or in any other manner.

Emergency Evacuation Route—those areas within the designated gaming area of a riverboat which are clearly defined and identified by the licensee as necessary and approved by the United States Coast Guard for the evacuation of passengers and crew from the riverboat, and from which and in which no gaming activity may be conducted.

Enforcement Action—any action undertaken by the division, to consider sanctions authorized by the act including the suspension, revocation or conditioning of a license or permit, or the assessment of a civil penalty upon the conclusion of an investigation into a violation of the act or of the rules adopted pursuant to the act, a violation of a condition, restriction or limitation placed on a license or permit, a violation of the licensee's rules of play, or a violation of the licensee's internal controls as approved by the division.

Excluded List—a list or lists which contain identities of persons who are excluded from any licensed gaming operation pursuant to the act.

Excluded Person—any person who has been placed on the list of excluded persons by the division and who has failed to timely request a hearing or who remains on the list after a final determination.

FF&E (Furniture, Fixtures and Equipment)—any part of a riverboat that may be installed or put into use as purchased from a manufacturer, supplier, or nongaming supplier, including but not limited to gaming devices, television cameras, television monitors, computer systems, computer programs, computers, computer printers, ready made furniture and fixtures, appliances, accessories, and all other similar kinds of equipment and furnishings.

Financial Statements—those statements and the information contained therein which relate to the assets, expenses, owner's equity, finances, earnings, or revenue of an applicant, licensee, permittee, registered company, or person who provides such records as part of an application or division investigation.

Fiscal Year—a period beginning July 1 and ending June 30 the following year.

Game Outcome—the final result of the wager.

Inspection—periodic surveillance and observation by the division of operations conducted by a licensee or permittee, which surveillance and observation may or may not be made known to the licensee or permittee.

Internal Control System—internal procedures and administration and accounting controls designed by the licensee and approved by the division, for the purpose of exercising control over the gaming operations.

Key Gaming Employee—any individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that regulate gaming activities including, but not limited to, the general manager and assistant general manager of the riverboat, director of finance, accounting controller, director of cage and/or credit operations, director of casino operations, director of table games, director of slots, director of security, director of surveillance, director of management information systems, any employee who supervises the operations of these departments or to whom these individual department directors report, and such other positions which the Division or the Board shall later determine, based on detailed analysis of job descriptions as provided in the internal controls of the licensee as approved by the Division. All other gaming employees, unless determined otherwise by the Division or the Board, shall be classified as nonkey gaming employees. In the case of vacation, leave of absence, illness, resignation, termination, or other planned or unplanned extended absence of a key employee, a nonkey assistant director or manager of the above named individual departments may serve not more than thirty (30) calendar days during any one (1) calendar year as head of that department, after written request to and written approval of the Supervisor of the Division or the Chairman of the Board.

Louisiana Business, Louisiana Company or Louisiana Corporation—a business, company or corporation which is at least fifty-one percent owned by one or more Louisiana domiciliaries who also control and operate the business. Control in this context means exercising the power to make policy decisions. Operate in this context means being actively involved in the day-to-day management of the business.

Manufacturer—is any person that manufactures, assembles, produces, or programs any gaming device for use or play in this state.

Minority Business Enterprise or Minority Owned Business—a business which is at least fifty-one percent owned by one or more minority individuals domiciled in Louisiana who also control and operate the business. Control in this context means exercising the power to make policy decisions. Operate in this context, means being actively involved in the day-to-day management of the business.

Net Gaming Proceeds—the total of all cash and property (including checks whether collected or not) received by the licensee from gaming operations, less the total of all cash paid out as winnings to patrons.

Nongaming Supplier or Supplier of Goods or Services Other Than Gaming Devices or Equipment—any person who sells, leases or otherwise distributes, directly or indirectly, goods and/or services other than gaming devices and equipment to a licensee.

Operation—a licensed riverboat gaming operation or the operation of a manufacturer or supplier pursuant to the issuance of a permit or the operation of racehorse wagering pursuant to the issuance of a permit under the act.

Operator's License—a riverboat gaming operator's license.

Patron—an individual who is at least 21 years of age and who has lawfully placed a wager in an authorized game on a riverboat.

Payout—winnings earned on a wager.

Permittee—any employee, agent, person, or entity who is issued or applying for a permit pursuant to the act. Permittee does not include an applicant in those particular sections or subsections where an applicant is treated differently than a permittee.

Premises—land, together with all buildings, vessels, improvements, and personal property located thereon.

Public Record—any paper, document, or other record required to be kept or necessary to be kept, in the discharge of a duty imposed by law, not declared confidential by statute or regulation.

Randomness—the observed unpredictability and absence of pattern in a set of elements or events that have definite probabilities of occurrence.

Records—accounts, correspondence, memorandums, audio tapes, videotapes, computer tapes, computer disks, electronic media, papers, books, and other documents or transcribed information of any type, whether expressed in ordinary or machine language.

Regulations—the riverboat gaming regulations promulgated pursuant to the act.

Renewal Applicant—a person who has filed any part of an application for renewal of any license or permit authorized by the act.

Renewal Application—all of the information, documents, forms, and materials required by the act and regulations to be filed with the division to renew any license or permit authorized by the act.

Riverboat—a vessel that carries a valid certificate of inspection issued by the United States Coast Guard with regard to the carriage of passengers on designated rivers or waterways within or contiguous to the boundaries of the state of Louisiana, carries a valid certificate of inspection from the United States Coast Guard for the carriage of a minimum of 600 passengers and crew, has a minimum length of 150 feet, is of such type and design so as to replicate as nearly as practicable historic Louisiana river borne steamboat passenger vessels of the 19th Century era, and is paddlewheel driven. A riverboat as defined herein is not required to be steam propelled or maintain overnight facilities for its passengers.

Riverboat Operator—an owner and/or operator of a riverboat.

Route—the path of one or more riverboats moving continuously on designated rivers and waterways as permitted or authorized by the commission.

Sensitive Keys—all keys, including originals and duplicates, used in the process of accessing cash, chips, tokens, die and cards. Sensitive keys also include, but are not limited to drop box release and content keys, gaming device cabinet keys except slot machine access keys, and all keys used to access secure areas. Sensitive keys also include any keys so designated in the licensee's internal controls as approved by the division.

Statements on Auditing Standards—the auditing standards and procedures published by the American Institute of Certified Public Accountants.

Supplier of Gaming Devices and Equipment or Supplier—any person that sells, leases, markets, offers, or otherwise distributes, directly or indirectly, any gaming devices or equipment for use or play in this state or sells, leases, or otherwise distributes any gaming devices or equipment.

Token—a metal representative of value, redeemable for cash, and issued and sold by a licensee for use in electronic gaming devices, table games or counter games at the licensee's gaming establishment.

Wager—a sum of money or thing of value risked on a game.

Win—the total of all cash and property (including checks received by a licensee, whether collected or not) received by the licensee from gaming operations, less the total of all cash paid out in winnings to patrons.

Women's Business Enterprise or Woman Owned Business—A business which is at least fifty-one percent owned by one or more women who are citizens of the United States domiciled in Louisiana and who also control and operate the business. Control in this context means exercising the power to make policy decisions. Operate in this context means being actively involved in the day-to-day management of the business. In determining whether a business is fifty-one percent owned by one or more women, the percentage ownership by a woman shall not be diminished because she is part of the community property regime.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:705 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), LR 24:344 (February 1998), LR 25:

Chapter 21. Licenses and Permits

§2108. Nongaming Suppliers

A. Except as provided in Subsections E and F of this Section, any nongaming supplier shall obtain a nongaming supplier permit from the division, upon providing goods and/or services to a licensee in an amount in excess of \$50,000 during the preceding twelve (12) month period.

B. Any nongaming supplier, regardless of whether having been permitted or not and regardless of the dollar amount of goods or services provided to a licensee may be requested to apply to the division for a finding of suitability.

C. Unless otherwise notified by the division in writing, a licensee shall conduct business with a nongaming supplier only if:

1. such supplier possesses a valid nongaming permit which has been placed in an approved status by the division; or

2. such supplier has been issued a waiver from the division regarding the necessity of obtaining a permit, pursuant to the provisions of subsections E or F of this Section; or

3. during the immediate preceding twelve (12) month period, such supplier has received \$50,000 or less from the licensee as payment for providing nongaming services or goods to the licensee.

D. It shall be the responsibility of each licensee to ensure that it has not paid more than \$50,000 to any nongaming supplier during the preceding twelve (12) month period as payment for providing nongaming services or goods, unless such nongaming supplier holds a valid nongaming permit which has been placed in an approved status by the division or has been issued a waiver regarding the necessity of obtaining such a permit from the division pursuant to Subsections E or F of this Section.

E. The following nongaming suppliers shall be deemed to have been waived by the division from the necessity of obtaining a nongaming permit pursuant to this Section:

1. nonprofit charitable organizations, and educational institutions which receive funds from the licensee, including educational institutions that receive tuition reimbursement on behalf of employees of a licensee:

a. nonprofit charitable organization shall mean a nonprofit board, association, corporation, or other organization domiciled in this state and qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c), (3), (4), (5), (6), (7), (8), (10), or (19) of the Internal Revenue Code;

2. entities which provide one or more of the following services to a licensee and which are the sole source provider of such service:

- a. water;
- b. sewage;
- c. electricity;
- d. natural gas; or
- e. local telephone services;

3. regulated insurance companies providing insurance to a licensee and its employees including providers of medical, life, dental, and property insurance;

4. administrators of employee benefit and retirement plans including incorporated 401K plans and employee stock purchase programs;

5. national or local professional associations which receive funds from a licensee for the cost of enrollment, activities, and membership;

6. all state, federal, and municipal operated agencies;

7. all liquor, beer and wine industries regulated by the Office of Alcohol and Tobacco Control;

8. state and federally regulated banks and savings and loan associations;

9. newspapers, television stations and radio stations which contract with licensees to provide advertising services;

10. providers of professional services, including but not limited to accountants, architects, attorneys, consultants, engineers and lobbyists, when acting in their respective professional capacities.

F. Any nongaming supplier required to obtain a nongaming permit, other than those listed in subsection E in this Section may request a waiver of the necessity of obtaining a nongaming permit. The division may grant such a request upon a showing of good cause by the nongaming supplier. The division may rescind any such waiver which has been previously granted upon written notice to the nongaming supplier.

G. Junket representatives shall be subject to the provisions of this Section in the same manner as other nongaming suppliers.

H. Each licensee shall submit to the division, on a quarterly basis, a report containing a list of all nongaming suppliers which have received \$5,000 or more from the licensee during the previous quarter, or \$50,000 or more during the preceding twelve (12) month period as payment for providing nongaming services or goods to the licensee. This report shall include the name and address of the nongaming supplier, a description of the type of goods or services provided, the nongaming supplier's nongaming permit number, if applicable, federal tax identification number, and the total amount of all payments made by the licensee, or any person acting on behalf of the licensee, to each nongaming supplier during the previous four (4) quarters. For each nongaming supplier listed in this quarterly report which is a provider of professional services as defined in Subsection E.10 of this Section, each licensee shall also submit a brief statement describing the nature and scope of the professional service rendered by each such provider, the number of hours of work performed by each such provider, and the total amount paid to each such provider by the licensee or any person acting on behalf of the licensee during the previous quarter. This report shall be received by the board and the division not later than the last day of the month following the quarter being reported.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

Chapter 23. Compliance, Inspections and Investigations

§2325. Imposition of Sanctions

A. The division may assess a civil penalty as provided for in the penalty schedule (Subsection E). The penalty schedule lists a base fine and proscriptive period for each violation committed by the licensee or permittee. The proscriptive period is the amount of time determined by the division in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period. The violation of any rule may result in the assessment of a civil penalty, suspension, revocation, or other administrative action. If the calculated penalty exceeds the statutory

maximum of \$100,000, the matter shall be forwarded to the Board for further administrative action. In such case, the board shall determine the appropriate penalty to be assessed. Assisting in the violation of rules, laws, or procedures as provided in §2931 may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

B. ...

C. The division may impose any sanction authorized by the act or these rules for violation of the licensee's internal controls as are approved by the division. For purposes of this section, the licensee's internal controls shall include:

1. accounting and financial controls including procedures to be utilized in counting, banking, storage and handling of cash;

2. procedures, forms, and where appropriated, formulas covering the calculation of hold percentages, revenue drop, expenses and overhead schedules, complimentary services, cash equivalent transactions, salary structure, and personnel practices;

3. job descriptions and the systems of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in gaming operations and identifying primary and secondary supervisor positions for areas of responsibility, which areas shall not be so extensive as to be impractical for and individual to monitor;

4. procedures within the cashier's cage for the receipt, storage, and disbursal of chips, cash, and other cash equivalents used in gaming, the payoff of jackpots, and the recording of transactions pertaining to gaming operations;

5. procedures for the collection and security of monies at the gaming tables;

6. procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage;

7. procedures for the transfers of monies from the gaming tables to the counting process;

8. procedures for the counting and recordation of revenue;

9. procedures for the security, storage, and recordation of chips and other cash equivalents utilized in other gaming operations;

10. procedures for the transfer of monies or chips from and to the slot machines;

11. procedures and standards for the opening and security of slot machines;

12. procedures for the payment and recordation of slot machine jackpots;

13. procedures for the cashing and recordation of checks exchanged by patrons;

14. procedures governing the utilization of the private security force within the designated area;

15. procedures and security standards for the handling and storage of gaming apparatus, including cards, dice, machines, wheels, and all other gaming equipment;

16. procedures and rules governing the conduct of particular games and the responsibilities of the riverboat gaming personnel in respect thereto; and

17. such other procedures, rules or standards that the division may impose on a licensee regarding its operations.

D. A sanction for purposes of this section includes, but is not limited to suspension, revocation, or cancellation of a license or permit, the imposition of a civil penalty and such

other costs as the division deems appropriate, or other conditioning, limiting, or restricting of a license or permit.

E. Penalty Schedule

Penalty Schedule			
Section Reference	Description	Base Fine	Proscriptive Period (Months)
Chapter 21. Licenses and Permits			
2101	General Authority of the Division	\$10,000	18
2110	Maritime Requirements	\$10,000	18
2116.A	Cash Transaction Reporting	\$5,000	12
2116.B	Cash Transaction Reporting (Violations in Other States)	\$20,000	24
2125	Access to Applicants' Premises and Records	\$25,000	60
2127.A	Information Constituting Grounds for Delay or Denial of an Application	\$10,000	24
2159.A	Gaming Employee Permits Required	\$10,000	18
2165	Display of Gaming Employee Permit	\$500	12
Chapter 23. Compliance, Inspections, and Investigations			
2325	Imposition of Sanctions	\$2,500	12
Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions			
2521	Loans and Lines of Credit	\$75,000	60
Chapter 27. Accounting Regulation			
2701	Procedures for Reporting and Paying Gaming Taxes and Fees		
	Late Reports	\$2,000	12
	Late Wire Transfers	\$5,000	12
2703.A-E	Accounting Records (per issue)	\$2,000	12
2705	Records of Ownership	\$500	12
2707	Records Retention	\$10,000	18
2709.A	Uniform chart of accounts	\$1,000	12
2709.B	Quarterly Financial Statements	\$1,000	12
2709.C	SEC Reports	\$500	12
2711.B	Required Signatures	\$500	12
2711.D	Change of CPA Requirements	\$10,000	60
2711.F	Audited Financial Statements (submission date)	\$10,000	60
2711.G	Change of Business Year	\$2,000	60
2711.H	Other CPA Reports	\$2,000	60
2711.I	Quarterly Net Win Reports	\$5,000	24
2711.J	Additional CPA Information	\$10,000	60
2713.D	Submit Monthly Calculation to Division	\$5,000	12
2713.E	Submission of Revised Calculated Amount	\$5,000	12
2715.A.1-7,11	General Requirements	\$2,500	12
2715.A.8-10, 12	Key Control & Entry Logs	\$10,000	24
2715.E	Late Submission	\$10,000	60
2715.F	Amendment of Computerized Controls	\$25,000	24
2715.H	Amendments to Internal Controls required by the Division	\$20,000	24
2715.J-M	General Credit Requirements	\$5,000	18
2715.O	Monthly Credit Report	\$5,000	18
2715.Q	Amendments to Internal	\$25,000	24

	Controls		
2716.A	Clothing Requirements	\$5,000	12
2717	Internal Controls, Table Games		
2717.A-F	Fills and Credits	\$2,000	12
2717.G	Credit Procedures in Pit	\$5,000	12
2717.H	Non-Marker Credit Play	\$5,000	12
2717.I	Call Bets	\$10,000	18
2717.J	Table Games Drop Procedures	\$5,000	12
2717.K	Table Games Count Procedures	\$10,000	24
2717.L	Table Games Key Control Procedures	\$10,000	24
2717.N	Supervisory Controls of Table Games	\$2,500	12
2717.O	Table Games Records	\$2,500	12
2717.P	Accounting and MIS Functions	\$2,500	12
2719 A & B	Handling of Cash at Gaming Tables	\$5,000	18
2721	Tips and Gratuities Licensee Violation	\$2,000	12
2723	Internal Controls, Slots		
2723.B & C	Jackpot Request	\$2,000	12
2723.D	Jackpot Payout Slip	\$2,000	12
2723.E	Jackpot Payout Slips greater than \$1,200	\$2,000	12
2723.F	Jackpot Payout Slips greater than \$5,000	\$2,000	12
2723.G	Jackpot Payout Slips greater than \$10,000	\$2,000	12
2723.H	Jackpot Payout Slips greater than \$10,000	\$2,000	12
2723.I	Slot Fill Slips	\$2,000	12
2723.J	Slot Drop	\$10,000	12
2723.K	Slot Count	\$10,000	12
2723.L	Hard Count Room	\$5,000	24
2723.M	Accurate and Current Records for each slot machine	\$5,000	24
2723.N	Slot Machines removed from gaming floor	\$5,000	12
2723.O	Key Control & Entry Logs	\$10,000	24
2723.P	Sensitive Keys removed from vessel	\$10,000	24
2723.Q	Currency Acceptor Drop and Count Standards	\$10,000	24
2723.T	Accounting Department audit procedures relative to slot operations	\$2,000	12
2723.U	Slot Department Requirements	\$2,000	12
2723.V	Progressive Slot Machines	\$2,000	12
2723.W	Training	\$2,000	12
2725.A-G	Poker	\$2,500	12
2727	Race Book	\$5,000	12
2729	Cage and Credit		
2729.A-H	Cage Procedures	\$5,000	12
2729.I-HH	Credit Extension/Check Cashing	\$5,000	12
2729.II-NN	Other Credit Issues	\$5,000	12
2730	Exchange of Chips and Tokens	\$1,000	12
2731	Currency Transaction Reporting	\$5,000	12
2735	Net Gaming Proceeds Computation	\$5,000	12
2736	Treatment of Credit for Computing Net Gaming Proceeds	\$5,000	12
2744	Amendments to Internal Controls	\$25,000	24
2745	Revisions to Internal Controls	\$25,000	24
Chapter 29. Operating Standards			

2901	Methods of Operation Generally	\$10,000	24
2905	Weapons on the Riverboat	\$10,000	24
2911	Accessibility to Premises; Parking	\$1000	12
2913	Access to Premises and Production of Records	\$10,000	24
2915	Methods to Prevent Minors from Gaming Area	\$10,000	12
2919	Finder's Fees	\$10,000	12
2921.A	Agencies who may Collect	\$10,000	60
2921.B	Collection by Unsuitable Person	\$10,000	60
2921.C	Recordation of Collection Arrangements; Division Inspection	\$10,000	60
2933	Compulsive/Problem Gamblers - Telephone Info and Referral Service Posting	\$1000	24
2935	Entertainment Activities	\$5,000	12
2943	Gaming Employees Prohibited from Gaming	\$2,500	12
2945	Restrictive Areas	\$10,000	24
2953	Promotions and Tournaments	\$5,000	12
Chapter 31. Rules of Play			
Note: Unless otherwise stipulated below, all violations of this chapter have a base fine of \$5,000 and a 12 month proscriptive period			
3101	Authority and Applicability		
	Unauthorized Game	\$25,000	24
3103	House Rules	\$5,000	12
3105	Submission of Rules	\$25,000	24
Chapter 33. Surveillance and Security			
3301	Required Surveillance Equipment	\$10,000	24
3303	Surveillance System Plans	\$25,000	24
3305.A	Division Room	\$10,000	24
3305.B	Access to Surveillance Equipment	\$10,000	24
3305.C	Surveillance Employees Prohibited from Other Gaming Duties	\$5,000	24
3305.D&E	Security of Division and Surveillance Rooms	\$10,000	24
3305.F	Division Agents Access to Surveillance Room	\$15,000	24
3305.G	Division Room Furnishings	\$10,000	24
3305.H	Licensee Surveillance	\$5,000	24
3307	Segregated Telephone Communication	\$5,000	24
3309.A	Maintaining Logs	\$10,000	24
3309.B	Logging of Unusual Occurrences	\$10,000	24
3311	Storage and Retrieval	\$20,000	24
3313	Dock Side Division Facility	\$10,000	24
3315	Maintenance and Testing	\$20,000	24
3317	Surveillance System Compliance	\$25,000	24
Chapter 35. Patron Disputes			
3501	Division Notification	\$1,000	12
Chapter 37. List of Excluded Persons			
3705	Duty of Licensees and Permittees to Exclude	\$5,000	12

Chapter 41. Enforcement Actions			
4101	Emergency Orders	\$50,000	60
4103	Supervisor Action By Order (Division Orders)	\$20,000	18
Chapter 43. Specifications for Gaming Devices and Equipment			
4301	Approval of Chips and Tokens; Applications and Procedures	\$5,000	12
4309	Use of Chips and Tokens	\$1,000	12
4311	Receipt of Gaming Chips or Tokens from Manufacturer or Supplier	\$5,000	12
4313	Inventory of Chips	\$5,000	12
4315	Redemption and Disposal of Discontinued Chips and Tokens	\$5,000	12
4317	Destruction of Counterfeit Chips and Tokens	\$5,000	12
4319	Approval and Specifications for Dice	\$5,000	12
4321	Dice; Receipt, Storage, Inspections and Removal From Use	\$5,000	12
4323	Approval and Specifications for Cards	\$5,000	12
4325	Cards; Receipt, Storage, Inspections and Removal From Use	\$5,000	12
4327	Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers	\$10,000	12
4331.B&C	Display	\$2,000	12
4331.D	Amount Reduction	\$5,000	12
4333	Computer Monitoring Requirements of Electronic Gaming Devices	\$10,000	12
4339	Certification by Manufacturer	\$1,000	12
4343	Duplication of Program Storage Media	\$20,000	24
4345	Marking, Registration, and Distribution of Gaming Devices	\$5,000	12
4347	Approval to Sell or Dispose of Gaming Devices	\$10,000	24
4349	Maintenance of Gaming Devices	\$20,000	24
4355	Approval of Associated Equipment; Application and Procedures	\$5,000	12
Title 27 of the Louisiana Revised Statutes Louisiana Gaming Control Law			
Chapter 4. The Louisiana Riverboat Economic Development And Gaming Control Act			
Part I. General Provisions			
27:47	License or permit required	\$10,000	60
Part III. Gaming Enforcement Division			
27:61(1)	Net gaming procedures	\$2,000	12
27:61(2)	Tax paid	\$2,000	12
27:61(3)	Quarterly financial statements	\$1,000	12
27:61(3)	Annual financial statements	\$10,000	60
Part V. Conducting Of Gaming Operations			
27:65B(1)	Sailing requirements	\$5,000	12
27:65B(2)	Sailing duration	\$5,000	12

27:65B(3)	Division agents may inspect anytime	\$25,000	60
27:65B(4)	Gaming equipment must be from permitted suppliers	\$25,000	
27:65B(5)	Wagering restrictions	\$10,000	18
27:65B(6)	Gaming only in designated areas	\$25,000	60
27:65B(7)	Gaming equipment storage	\$25,000	60
27:65B(8)	Wagering person must be present	\$10,000	18
27:65B(9)	No one under 21 allowed	\$10,000	12
27:65B(10)	Gaming only on the river as described	\$25,000	60
27:65B(11)	Wagering only with chips, tokens, etc.	\$10,000	18
27:65B(12)	Use of approved berth	\$25,000	60
27:65B(13)	Adequate insurance	\$25,000	60
27:65B(14)	Licensee must have necessary licenses	\$100,000	60
27:65B(15)	Must obey all rules	\$10,000	18
Part VII. Application And Licensing			
Part VIII. Issuance Of Permits To Manufacturers, Suppliers, And Others			
27:82C	Distribution of unapproved devices/supplies	\$25,000	60
27:82E	Supplier requirements	\$5,000	12
27:84	Gaming employee permits	\$10,000	18
27:84A	Unpermitted employee	\$10,000	18
27:84B	Underage patron/employees	\$10,000	12
27:86	Issuance of permit to conduct racehorse wagering	\$5,000	12

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended Gaming Control Board, LR 25:

§2331. Supplier Permit Criteria

The division shall determine whether suppliers providing goods and/or services to licensees are legitimate ongoing businesses. In making such determination the division shall consider any or all of the following nonexclusive factors:

1. years in business providing specific goods and/or services procured by licensees;
2. number of employees;
3. total customer base;
4. dollar volume of all sales compared to sales to licensees;
5. existence and nature of warehouse and storage facilities;
6. existence and number of commercial delivery vehicles owned or leased;
7. existence and nature of business offices, equipment and facilities;
8. whether the goods and/or services provided to the licensee are brokered, and if so whether the actual supplier distributes through brokers as a common business practice;
9. registration with and reporting to appropriate local, state and federal authorities, as applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

Family Impact Statement

Pursuant to the provisions of La. R.S. 49:953A., the Louisiana Gaming Control Board, through its chairman, has

considered the potential family impact of the proposed amendments to LAC 42:XIII.1701 and 2325, and addition of 42:XIII.2108 and 2331.

It is accordingly concluded that the amendments to LAC 42:XIII.1701 and 2325, and addition of 42:XIII.2108 and 2331 would appear to have no impact on any of the following.

1. The Effect On Stability Of The Family.
2. The Effect On The Authority And Rights Of Parents Regarding The Education And Supervision Of Their Children.
3. The Effect On The Functioning Of The Family.
4. The Effect On Family Earnings And Family Budget.
5. The Effect On The Behavior And Personal Responsibility Of Children.
6. The Ability Of The Family Or A Local Government Too Perform The Function As Contained In The Proposed Rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit written comments relative to these proposed rules, through October 10, 1999, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nongaming Suppliers; Imposition of
Sanctions; Supplier Permit Criteria**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no implementation costs or savings to state or local government units. The addition of LAC 42:XIII.2331, supplier permit criteria, will result in some increased workload to the Riverboat Gaming Enforcement Division of State Police. However, the amount of increase and cost cannot be estimated at this time due to the fact that the information to be submitted by applicants has not been received and the number of suppliers is not constant. It is anticipated that any increase in workload can be performed at existing staffing levels.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is unknown whether revenue collections will increase or decrease as a result of the amendments to LAC 42:XIII.2325, the penalty schedule. Promulgation of a schedule with a repeat violation provision may result in greater compliance and fewer requests for administrative hearings. However, whether and to what extent violations will be committed by licensees cannot be projected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9909#019

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Reciprocity, Application and Reporting Forms,
Application and License
(LAC 42:III.119, 120 and 42:XI.2405)

The Louisiana Gaming Control Board hereby gives notice that it intends to add LAC 42:III 119 and 120 and to amend LAC 42:XI.2405 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 1. General Provisions

§119. Reciprocity

Any person licensed or permitted pursuant to the provisions of Chapters 4, 5, 6, or 7 of Title 27 of the Revised Statutes which seeks to apply for and be licensed or permitted to manufacture, repair or sell slot machines, gaming devices, gaming supplies or nongaming supplies or to provide services pursuant to another Chapter of Title 27 shall:

1. meet all statutory requirements of the Chapter for which an application or authorization to conduct business is sought, all general rules of the board and all rules and regulations applicable to the new gaming activity;
2. be in good standing with the board, the gaming enforcement section of the Louisiana State Police and the division with responsibility relative to regulation of the gaming activity for which the licensee or permittee is licensed or permitted to engage in. Good standing for the purposes of this section shall mean that:
 - a. the licensee or permittee has no administrative or enforcement actions pending relative to the respective license or permit;
 - b. there are no pending or ongoing investigations of possible violations by the licensee or permittee;
 - c. the licensee or permittee has filed a complete application and provided any and all information required to be furnished by statute, rule or regulation or which has been requested to be provided by the board or the respective division;
3. any administrative or enforcement action, other than assessment of a civil penalty, instituted against a licensee or permittee shall apply to and be given reciprocal effect to all licenses, permits or other authorizations to conduct business held by such licensee or permittee.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:

§120. Application and Reporting Forms

A. All applicants, licensees, permittees, and persons required to be found suitable shall utilize and complete, as applicable, the most recent version of the following forms.

1. Riverboat
 - a. Level I, Part A, Suitability Gaming Application, DPSSP 6616, including, but not limited to:
 - i. Instructions;
 - ii. Application for Gaming License or Suitability Approval Application, Business Entity Form;
 - iii. Applicant Information;
 - iv. Ownership Interest;
 - v. General Information;
 - vi. Records/ Books Information;
 - vii. Professional Services Information;
 - viii. Gaming Information (Miscellaneous);
 - ix. General Applicant Information;
 - x. Financial Disclosure Information;
 - xi. Affidavit of Full Disclosure;
 - xii. Applicant's Request to Release Information;
 - xiii. Verification;
 - xiv. Release of All Claims;
 - xv. Business Tax Information Authorization Request;
 - xvi. Federal Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - xvii. Federal Internal Revenue Service Gaming Tax Clearance Certificate;
 - xviii. State Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - xx. Louisiana Department of Revenue & Taxation Tax Clearance Certificate.
 - b. Level I, Part B, Personal History and Financial Record Suitability Gaming Application, DPSSP 6617, including, but not limited to:
 - i. Instructions;
 - ii. Personal History and Financial Record Suitability Gaming Application;
 - iii. Personal Information;
 - iv. Criminal History Information;
 - v. Civil Litigation Information;
 - vi. Military Service Data Information;
 - vii. Employment History Information;
 - viii. Professional Licenses, Etc., Information;
 - ix. Business Associations Information;
 - x. Financial Information;
 - xi. General Information;
 - xii. Supplemental Page Information;
 - xiii. Verification;
 - xiv. Affidavit of Full Disclosure;
 - xv. Individual's Request To Release Information;
 - xvi. Release of All Claims;
 - xvii. Individual Tax Information Authorization Request;
 - xviii. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
 - xx. State Individual Consent to Disclosure of Tax Information;

- xxi. Federal Internal Revenue Service Tax Clearance Certificate;
- xxiii. Federal Individual Consent to Disclosure of Tax Information.
 - c. Level I, Part A & B, Renewal Riverboat Gaming Application, DPSSP 6618 & 6619, including, but not limited to:
 - i. Part A – Instructions;
 - ii. Additional Application Information Required;
 - iii. Part B – Instructions;
 - iv. Definitions.
 - d. Level I, Renewal Suitability Gaming Application, Part A, DPSSP 6618, including, but not limited to:
 - i. Applicant Information;
 - ii. General Information;
 - iii. Records/Books Information;
 - iv. Professional Services Information;
 - v. Gaming Interest Information;
 - vi. General Information;
 - vii. Financial Disclosure Information;
 - viii. Affidavit of Full Disclosure;
 - ix. Applicant's Request To Release Information;
 - x. Verification;
 - xi. Release of All Claims;
 - xii. Business Tax Information Authorization Request;
 - xiii. Federal Business, Trusts, Estates, Etc. Consent To Disclosure of Tax Information;
 - xiv. Federal Internal Revenue Service Tax Clearance Certificate;
 - xv. State Department of Revenue & Taxation Consent To Disclosure of Tax Information;
 - xvi. Louisiana Department of Revenue & Taxation Tax Clearance Certificate.
 - e. Level I, Renewal Suitability Gaming Application, Part B, Personal History and Financial Record, DPSSP 6619, including, but not limited to:
 - i. Personal Information;
 - ii. Criminal History Information;
 - iii. Civil Litigation Information;
 - iv. Employment History;
 - v. Professional Licenses, Etc. Information;
 - vi. Business Associations Information;
 - vii. Financial Information;
 - viii. General Information;
 - ix. Supplemental Page Information;
 - x. Verification;
 - xi. Affidavit of Full Disclosure;
 - xii. Individual's Request To Release Information;
 - xiii. Release Of All Claims;
 - xiv. Individual Tax Information Authorization Request;
 - xv. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
 - xvi. State Individual Consent to Disclosure of Tax Information;
 - xvii. Federal Internal Revenue Service Tax Clearance Certificate;
 - xviii. Federal Individual Consent to Disclosure of Tax Information.

f. Casino Gaming Key Employee Permit Application, Instructions and Application, DPSSP 0074, including, but not limited to:

- i. Application for Permit;
- ii. Personal History and Financial Record;
- iii. Personal Financial Questionnaire;
- iv. Verification;
- v. Affidavit of Full Disclosure;
- vi. Release of all Claims;
- vii. Individual Tax Information Authorization Request;
- viii. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
- ix. State Individual Consent to Disclosure of Tax Information;
- x. Federal Internal Revenue Service Tax Clearance Certificate;
- xi. Federal Individual Consent to Disclosure of Tax Information.

g. Key Riverboat Gaming Employee Renewal Application, DPSSP 0084, including, but not limited to:

- i. Instruction Sheet;
- ii. Application For Permit;
- iii. Affidavit of Full Disclosure;
- iv. Release of All Claims.

h. Riverboat and Landbased Casino Non-Key Gaming Employee Permit Application, DPSSP 0075, including but not limited to:

- i. Permit Application;
- ii. Gaming Employee Applicant Conditional Approval Agreement (Non-Key Gaming);
- iii. Request to Release Information and Release of Claims by Company/Corporation/Individual.
- iv. Non-Key Riverboat Gaming Employee Renewal Application, DPSSP 0065, including, but not limited to:
 - i. Instruction Sheet;
 - ii. Application For Permit;
 - iii. Employee Gaming Permit Renewal Affidavit;
 - iv. Release of All Claims.
- v. Supplier of Significant Services (Marine Operations) Permit Application Individual Form Instructions and Application, DPSSP 0089
 - i. Instructions;
 - ii. Personal Information;
 - iii. Criminal History Information;
 - iv. Military Service Data Information;
 - v. Civil Litigation Information;
 - vi. Employment History Information;
 - vii. Professional Licenses Etc. Information;
 - viii. Business Associations Information;
 - ix. Personal Financial Questionnaire;
 - x. Supplemental Page Information
 - xi. Verification;
 - xii. Affidavit of Full Disclosure;
 - xiii. Individual's Request To Release Information;
 - xiv. Release Of All Claims;
 - xv. Individual Tax Information Authorization Request;
- vi. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
- vii. State Individual Consent to Disclosure of Tax Information;

xviii. Federal Internal Revenue Service Tax Clearance Certificate;

xx. Federal Individual Consent to Disclosure of Tax Information.

k. Individual Marine Operation Permit Renewal Application, DSSP 0091, including, but not limited to:

- i. Instruction Sheet;
- ii. Application For Permit;
- iii. Affidavit of Full Disclosure;
- iv. Release of All Claims.

l. Casino Gaming Non-Gaming Supplier Permit Application, DPSSP 0076, including, but not limited to:

- i. Application for Permit;
- ii. Verification;
- iii. Non-Gaming Application Request to Release Information and Release of Claims Company/Corporation/Individual;
- iv. Business Tax Information Authorization Request;
- v. Tax Clearance Request.

m. Level II, Casino Gaming Permit Application Manufacturers and Suppliers, Part A, DPSSP 0073, including, but not limited to:

- i. Instruction Page;
- ii. Schedule of Fees;
- iii. Application for Permit;
- iv. Statement of Assets;
- v. Statement of Liabilities;
- vi. Verification;
- vii. Affidavit of Full Disclosure;
- viii. Release of All Claims;
- ix. Individual Tax Information Authorization Request;
- x. Applicants Request to Release Information.

n. Level II, Casino Gaming Permit Application, Personal History and Financial Record, Part B, DPSSP 0077, including, but not limited to:

- i. Personal Information;
- ii. Personal Financial Questionnaire;
- iii. Statement of Assets;
- iv. Statement of Liabilities;
- v. Verification;
- vi. Affidavit of Full Disclosure;
- vii. Individuals Request to Release Information;
- viii. Release of All Claims;
- ix. Individual Tax Information Authorization Request.

o. Gaming Permit/License Application For Manufacturers, Suppliers/Distributors and Service Entities, DPSSP 6613, including, but not limited to:

- i. Instructions;
- ii. Schedule of Fees;
- iii. Application for Permit;
- vi. Application for Permit;
- v. Vendor Reciprocity Affidavit

p. Non-Gaming Supplier Permit Application For Suppliers of Non-Gaming Goods/Services, DPSSP 6614, (In Accordance with Reciprocity Provisions of La R.S. 27.91(E)), including, but not limited to:

- i. Instructions;
- ii. Application for Permit;
- iii. Vendor Reciprocity Affidavit;

- iv. Request to Release Information and Release of Claims by Company/Corporation/Individual;
- v. Tax Clearance Request;
- vi. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
- vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
- viii. Internal Revenue Service Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).
- q. Supplier of Significant Services (Marine Operations) Permit Application, DPSSP 0088, including, but not limited to:
 - i. Application for Permit;
 - ii. Business Financial Questionnaire;
 - iii. Statement of Assets;
 - iv. Statement of Liabilities;
 - v. Verification;
 - vi. Affidavit of Full Disclosure;
 - vii. Applicants Request to Release Information;
 - viii. Release of All Claims;
 - ix. Applicants Tax Information Authorization Request.
- r. Non-Gaming Supplier Renewal Application, DPSSP 0090, including, but not limited to:
 - i. Application for Permit;
 - ii. Affidavit Form;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - iv. Business Tax Information Authorization Request;
 - v. Tax Clearance Request.
- s. Manufacturer/Supplier Renewal Application, DPSSP 0064, including, but not limited to:
 - i. Application for Permit;
 - ii. Affidavit Form;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - vi. Business Tax Information Authorization Request;
 - v. Tax Clearance Request.
- t. Fingerprint Cards

2. Land Based Casino

- a. Casino Gaming Key Employee Permit Application Instructions and Application, DPSSP 0074, including, but not limited to:
 - i. Personal History and Financial Record;
 - ii. Personal Financial Questionnaire;
 - iii. Statement of Assets;
 - iv. Statement of Liabilities
 - v. Verification;
 - vi. Affidavit of Full Disclosure;
 - vii. Individual's Request to Release Information;
 - viii. Release of all Claims;
 - ix. Individual Tax Information Authorization Request;
 - x. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
 - xi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal);

- xii. Businesses, Trusts, Estates, Etc. Consent to Disclosure of Tax Information.
- b. Gaming Key Employee Permit Renewal Application Packet, including, but not limited to:
 - i. Instructions;
 - ii. Gaming Key Employee Permit Renewal Application;
 - iii. Gaming Permit Affidavit;
 - iv. Request to Release Information and Release of Claims by Company/Corporation/Individual.
- c. Riverboat and Landbased Casino Non-Key Gaming Employee Permit Application, DPSSP 0075, including, but not limited to:
 - i. Permit Application;
 - ii. Gaming Employee Applicant Conditional Approval Agreement (Non-Key Gaming);
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual.
- d. Gaming Non-Key Employee Permit Renewal Application, including, but not limited to:
 - i. Instructions;
 - ii. Gaming Non-Key Employee Permit Renewal Application;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual.
- e. Gaming Permit/License Application for Manufacturers, Suppliers/Distributors and Service Entities (In Accordance with Reciprocity Provisions), DPSSP 6613, including, but not limited to:
 - i. Application for Permit;
 - ii. Vendor Reciprocity Affidavit.
- f. Level II, Casino Gaming Permit Application Manufacturers and Suppliers, Part A, DPSSP 0073, including, but not limited to:
 - i. Schedule of Fees;
 - ii. Application for Permit;
 - iii. Statement of Assets;
 - iv. Statement of Liabilities;
 - v. Verification;
 - vi. Affidavit of Full Disclosure;
 - vii. Release of all Claims;
 - viii. Individual Tax Information Authorization Request;
 - ix. Applicant's Request to Release Information;
 - x. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
 - xi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal);
 - xii. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information.
- g. Manufacturers and Suppliers Gaming Permit Renewal Application, including, but not limited to:
 - i. Instructions;
 - ii. Renewal Application;
 - iii. Gaming Permit Affidavit;
 - iv. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - v. Individual Tax Information Authorization Request;

vi. Business Tax Information Authorization Request;

vii. Tax Clearance Request.

h. Non-Gaming Supplier Permit Application for Suppliers of Non-Gaming Goods/Services (In Accordance with Reciprocity Provisions), DPSSP 6614, including, but not limited to:

- i. Application for Permit;
- ii. Vendor Reciprocity Affidavit;
- iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
- iv. Tax Clearance Request;
- v. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;

vi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance (State);

vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance (Federal).

i. Casino Gaming Non-Gaming Supplier Permit Application, DPSSP 0076, including, but not limited to:

- i. Application for Permit;
- ii. Verification;
- iii. Non-Gaming Application Request to Release Information and Release of Claims Company/Corporation/Individual;

iv. Business Tax Information Authorization Request;

v. Tax Clearance Request;

vi. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;

vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);

viii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).

j. Non-Gaming Suppliers Permit Renewal Application, including, but not limited to:

- i. Instructions;
- ii. Renewal Application;
- iii. Affidavit;
- iv. Non-Gaming Request to Release Information and Release of Claims by Company/Corporation/Individual;

v. Business Tax Information Authorization Request;

vi. Tax Clearance Request.

k. Level I, Suitability Gaming Application, Part A, including, but not limited to:

- i. Application for License;
- ii. Statement of Assets;
- iii. Statement of Liabilities;
- iv. Affidavit of Full Disclosure;
- v. Applicant's Request to Release Information;
- vi. Individual Tax Information Authorization Request;

vii. Verification.

l. Level II, Casino Gaming Permit Application Personal History and Financial Record Part B, DPSSP 0077, including, but not limited to:

- i. Personal Information;

ii. Personal Financial Questionnaire;

iii. Statement of Assets;

iv. Statement of Liabilities;

v. Verification;

vi. Affidavit of Full Disclosure;

vii. Individual's Request to Release Information;

viii. Release of All Claims;

ix. Individual Tax Information Authorization Request;

x. Business, Trusts, Estates, Etc. Consent to Disclose Tax Information;

xi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);

xii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).

m. Land Based Casino Gaming Division, Junket or Limousine Service Casino Gaming Permit Application, DPSSP 6611, including, but not limited to:

i. Schedule of Fees;

ii. Application for Permit;

iii. Statement of Assets;

iv. Statement of Liabilities;

v. Verification;

vi. Affidavit of Full Disclosure;

vii. Release of all Claims;

viii. Individual Tax Information Authorization Request;

ix. Applicant's Request to Release Information;

x. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);

xi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal);

xii. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information.

n. Gaming Device Shipment Notification, including, but not limited to:

i. Gaming Device Shipment Notification, DPSSP 6501;

ii. Gaming Device Shipment Notification (Supplemental), DPSSP 6502.

o. Finger Print Cards

3. Video Poker

a. Video Gaming Application, DPSSP 0031

b. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information

c. Affidavit of Full Disclosure, DPSSP 0036

d. Request to Release Information, DPSSP 0037

e. Release of All Claims, DPSSP 0035

f. Individual Consent to Disclosure of Tax

Information

g. Personal History Questionnaire, DPSSP 0032

h. Personal Financial Questionnaire, DPSSP 0033

i. Designated Representative/Manager Application Form, DPSSP 5403

j. Multiple Use Reporting Form, VGD 071498

k. Application for Video Poker Device Permit, DPSSP 0059

- 1. Gaming Device Ownership Transfer Notification, DPSSP 0052
 - m. Video Gaming Device Service/Repair Form, DPSSP 0040
 - n. pari-mutuel Wagering Facility Monthly Report, DPSSP 0046
 - o. Authorization Agreement for Pre-Authorized Payments, DPSSP 0038
 - p. Video Gaming Device Shipment Notification, DPSSP 0043
 - q. Minimum Monthly Fuel Sales Report, DPSVGD 1011
 - r. Monthly Fuel Sales Meter Reading Report, DPSVGD 1012
 - s. Renewal Application, DPSSP 0049
 - t. Renewal Affidavit/Certification, DPSSP 0051
 - u. Finger Print Cards
- 4. Live Racing Facility Slot Machine Gaming
 - a. Level I, Part A, Suitability Gaming Application, DPSSP 6616, including, but not limited to:
 - i. Instructions;
 - ii. Application for Gaming License or Suitability Approval Application, Business Entity Form;
 - iii. Applicant Information;
 - iv. Ownership Interest;
 - v. General Information;
 - vi. Records/ Books Information;
 - vii. Professional Services Information;
 - viii. Gaming Information (Miscellaneous);
 - ix. General Applicant Information;
 - x. Financial Disclosure Information;
 - xi. Affidavit of Full Disclosure;
 - xii. Applicant's Request to Release Information;
 - xiii. Verification;
 - xiv. Release of All Claims;
 - xv. Business Tax Information Authorization Request;
 - xvi. Federal Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - xvii. Federal Internal Revenue Service Gaming Tax Clearance Certificate;
 - xviii. State Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - xx. Louisiana Department of Revenue & Taxation Tax Clearance Certificate.
 - b. Level I, Part B, Personal History and Financial Record Suitability Gaming Application, DPSSP 6617, including, but not limited to:
 - i. Instructions;
 - ii. Personal History and Financial Record Suitability Gaming Application;
 - iii. Personal Information;
 - iv. Criminal History Information;
 - v. Civil Litigation Information;
 - vi. Military Service Data Information;
 - vii. Employment History Information;
 - viii. Professional Licenses, Etc., Information;
 - ix. Business Associations Information;
 - x. Financial Information;
 - xi. General Information;
 - xii. Supplemental Page Information;
 - xiii. Verification;

- xiv. Affidavit of Full Disclosure;
- xv. Individual's Request To Release Information;
- xvi. Release of All Claims;
- xvii. Individual Tax Information Authorization Request;
- xviii. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
- xx. State Individual Consent to Disclosure of Tax Information;
- xxi. Federal Internal Revenue Service Tax Clearance Certificate;
- xxiii. Federal Individual Consent to Disclosure of Tax Information.
- c. Level I, Part A & B Renewal Riverboat Gaming Application, DPSSP 6618 & 6619, including, but not limited to:
 - i. Part A – Instructions;
 - ii. Additional Application Information Required;
 - iii. Part B – Instructions;
 - iv. Definitions.
- d. Level I, Renewal Suitability Gaming Application, Part A, DPSSP 6618, including, but not limited to:
 - i. Applicant Information;
 - ii. General Information;
 - iii. Records/Books Information;
 - iv. Professional Services Information;
 - v. Gaming Interest Information;
 - vi. General Information;
 - vii. Financial Disclosure Information;
 - viii. Affidavit of Full Disclosure;
 - ix. Applicant's Request To Release Information;
 - x. Verification;
 - xi. Release of All Claims;
 - xii. Business Tax Information Authorization Request;
 - xiii. Federal Business, Trusts, Estates, Etc. Consent To Disclosure of Tax Information;
 - xiv. Federal Internal Revenue Service Tax Clearance Certificate;
 - xv. State Department of Revenue & Taxation Consent To Disclosure of Tax Information;
 - xvi. Louisiana Department of Revenue & Taxation Tax Clearance Certificate.
- e. Level I, Renewal Suitability Gaming Application, Part B, Personal History and Financial Record, DPSSP 6619, including, but not limited to:
 - i. Personal Information;
 - ii. Criminal History Information;
 - iii. Civil Litigation Information;
 - iv. Employment History;
 - v. Professional Licenses, Etc. Information;
 - vi. Business Associations Information;
 - vii. Financial Information;
 - viii. General Information;
 - ix. Supplemental Page Information;
 - x. Verification;
 - xi. Affidavit of Full Disclosure;
 - xii. Individual's Request To Release Information;
 - xiii. Release Of All Claims;
 - xiv. Individual Tax Information Authorization Request;

- xv. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
- xvi. State Individual Consent to Disclosure of Tax Information;
- xvii. Federal Internal Revenue Service Tax Clearance Certificate;
- xviii. Federal Individual Consent to Disclosure of Tax Information.
- f. Key Riverboat Gaming Employee Permit Application, DPSSP 0074, including, but not limited to:
 - i. Application for Permit;
 - ii. Personal History and Financial Record;
 - iii. Personal Financial Questionnaire;
 - iv. Verification;
 - v. Affidavit of Full Disclosure;
 - vi. Release of all Claims;
 - vii. Individual Tax Information Authorization Request;
 - viii. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
 - ix. State Individual Consent to Disclosure of Tax Information;
 - x. Federal Internal Revenue Service Tax Clearance Certificate;
 - xi. Federal Individual Consent to Disclosure of Tax Information.
- g. Key Riverboat Gaming Employee Renewal Application, DPSSP 0084, including but not limited to:
 - i. Instruction Sheet;
 - ii. Application For Permit;
 - iii. Affidavit of Full Disclosure;
 - iv. Release of All Claims.
- h. Riverboat and Landbased Casino Non-Key Gaming Employee Permit Application, DPSSP 0075, including but not limited to:
 - i. Permit Application;
 - ii. Gaming Employee Applicant Conditional Approval Agreement (Non-Key Gaming);
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual.
 - i. Non-Key Riverboat Gaming Employee Renewal Application, DPSSP 0065, including, but not limited to:
 - i. Instruction Sheet;
 - ii. Application For Permit;
 - iii. Employee Gaming Permit Renewal Affidavit;
 - iv. Release of All Claims.
 - j. Casino Gaming Non-Gaming Supplier Permit Application, DPSSP 0076, including, but not limited to:
 - i. Application for Permit;
 - ii. Verification;
 - iii. Non-Gaming Application Request to Release Information and Release of Claims Company/Corporation/Individual;
 - iv. Business Tax Information Authorization Request;
 - v. Tax Clearance Request.
 - k. Casino Gaming Permit Application, Manufacturer and Suppliers, Part A, DPSSP 0073, including, but not limited to:
 - i. Instruction Page;
 - ii. Schedule of Fees;
 - iii. Application for Permit;

- iv. Statement of Assets;
- v. Statement of Liabilities;
- vi. Verification;
- vii. Affidavit of Full Disclosure;
- viii. Release of All Claims;
- ix. Individual Tax Information Authorization Request;
- x. Applicants Request to Release Information.
- l. Level II, Casino Gaming Permit Application, Personal History and Financial Record, Part B, DPSSP 0077, including, but not limited to:
 - i. Personal Information;
 - ii. Personal Financial Questionnaire;
 - iii. Statement of Assets;
 - iv. Statement of Liabilities;
 - v. Verification;
 - vi. Affidavit of Full Disclosure;
 - vii. Individuals Request to Release Information;
 - viii. Release of All Claims;
 - x. Individual Tax Information Authorization Request.
- m. Gaming Permit/License Application For Manufacturers, Suppliers/Distributors and Service Entities, DPSSP 6613, including, but not limited to:
 - i. Instructions;
 - ii. Schedule of Fees;
 - iii. Application for Permit;
 - vi. Application for Permit;
 - v. Vendor Reciprocity Affidavit.
- n. Non-Gaming Supplier Permit Application For Suppliers of Non-Gaming Goods/Services, DPSSP 6614, including, but not limited to:
 - i. Instructions;
 - ii. Application for Permit;
 - iii. Vendor Reciprocity Affidavit;
 - iv. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - v. Tax Clearance Request;
 - vi. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
 - viii. Internal Revenue Service Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).
 - o. Non-Gaming Supplier Renewal Application, DPSSP 0090, including, but not limited to:
 - i. Application for Permit;
 - ii. Affidavit Form;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - iv. Business Tax Information Authorization Request;
 - v. Tax Clearance Request.
 - p. Manufacturer/Supplier Renewal Application, DPSSP 0064, including, but not limited to:
 - i. Application for Permit;
 - ii. Affidavit Form;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - vi. Business Tax Information Authorization Request;

- v. Tax Clearance Request.
- q. Finger Print Cards
- 5. Reciprocity
 - a. Gaming Permit License Application for Manufactures, Suppliers/Distributors and Service Entities, DPSSP 6613, including but not limited to:
 - i. Application for Permit;
 - ii. Vendor Reciprocity Affidavit.
 - b. Non-Gaming Supplier Permit Application for Suppliers of Non-Gaming Goods/Services, DPSSP 6614, including but not limited to:
 - i. Application for Permit;
 - ii. Vendor Reciprocity Affidavit;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - iv. Tax Clearance Request;
 - v. Business, Trusts, Estates, Etc.;
 - vi. Consent to Disclosure of Tax Information;
 - vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
 - viii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).

B. All applicants, licensees, permittees and persons required to be found suitable shall fully comply with all instructions contained in the prescribed forms and shall provide all documentation and information requested therein.

C. Any revisions, additions, or other modifications to the prescribed forms shall be made upon recommendation of the respective division and approval of the board.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, L.R. 25:

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2405. Application and License

A. - B.2. ...

3. a. Beginning with licenses renewed or issued after August 15, 1999, licenses to operate video draw poker devices shall expire as follows:

- i. Licenses with a last digit of 1 or 2 in the license number shall expire on June 30, 2005;
- ii. Licenses with a last digit of 3 or 4 in the license number shall expire on June 30, 2001;
- iii. Licenses with a last digit of 5 or 6 in the license number shall expire on June 30, 2002;
- iv. Licenses with a last digit of 7 or 8 in the license number shall expire on June 30, 2003;
- v. Licenses with a last digit of 9 or 0 in the license number shall expire on June 30, 2004.

b. Beginning on July 1, 2004, all licenses shall have a term of five (5) years from the date of issuance.

4. The appropriate annual fee shall be paid by all licensees regardless of the expiration date of the license on or before July 1 of each year.

5. If an application for renewal has not been received by the division on or before close of business on the date of expiration, the license is expired, and a new application, along with all appropriate fees, shall be required to be filed.

B.6. - B.12.a. ...

b. If surrendered in accordance with §2405, no gaming activities may be conducted at the premises, however the license may be returned to the licensee upon continuance of business operations until the expiration date of the license or after one-hundred eighty (180) days has elapsed from the date business operations were continued, whichever occurs first.

c. Licenses surrendered in accordance with §2405.A to the prescribed forms shall not be subject to renewal unless returned to the licensee.

B.12.d. - D.7. ...

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 25:

Family Impact Statement

Pursuant to the provisions of La. R.S. 49:953A., the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the proposed addition of LAC 42:III.119 and 120 and amendments to LAC 42:XI.2405.

It is accordingly concluded that the addition of LAC 42:III.119 and 120, and amendment to LAC 42:XI.2405 would appear to have no impact on any of the following.

1. The Effect On Stability Of The Family.
2. The Effect On The Authority And Rights Of Parents Regarding The Education And Supervision Of Their Children.
3. The Effect On The Functioning Of The Family.
4. The Effect On Family Earnings And Family Budget.
5. The Effect On The Behavior And Personal Responsibility Of Children.
6. The Ability Of The Family Or A Local Government To Perform The Function As Contained In The Proposed Rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit written comments relative to these proposed rules, through November 9, 1999, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Reciprocity, Application and Reporting Forms, Application and License

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no direct implementation costs or savings to state or local government units. Act 490 of the 1999 Regular Session provided for extended terms for video poker licenses, to five (5) years by July 1, 2004. The rule changes to LAC XI.2405 as required by Act 490 will result in a workload reduction by fewer applications being processed each

year. However, the cost savings to the state cannot be estimated with any degree of certainty. Additionally, man hours saved from licensing will be expended in other areas: auditing, investigation and enforcement.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no direct effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits are estimated to result from these rule changes. As a result of changes to LAC 42:XI.2405, it is anticipated that video poker licensees will benefit to the extent applications and/or renewal affidavits are no longer required to be submitted annually, but instead for longer periods, up to five (5) years, by July 1, 2004. The amount of cost savings to video poker licensees is inestimable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9909#018

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Liquefied Petroleum Gas—General Requirements
(LAC 55:IX.107, 109, 113, 125, 166, 172, 177, 181)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, notice is hereby given that the Commission proposes to amend its rules. The proposed rule changes have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

The proposed rule changes will do fourteen things:

1. will increase the penalty authority of the commission from a minimum of \$50 and a maximum of \$500 to a minimum of \$100 and a maximum of \$1000, as mandated by Act 584 of the 1999 Regular Session;
2. will increase truck registrations from \$25 to \$50, as mandated by Act 584 of the 1999 Regular Session;
3. will increase competency test fees from \$10 to \$20, as mandated by Act 584 of the 1999 Regular Session;
4. will increase competency card renewal fees from \$5 to \$10, as mandated by Act 584 of the 1999 Regular Session;
5. will decrease percentage based permit fees by the same dollar amount as the increases by rule changes 2, 3 and 4 above, as mandated by Act 584 of the 1999 Regular Session. Computations will be based on the fiscal year 1998-1999 actual numbers;
6. will extend to all classes of permits, where applicable the current requirement of Class 1 permits, that the name of the dealer must appear on all tank trucks and/or storage tank sites;

7. will clarify accident reporting requirements to the commission and include reporting to the commission accidental releases at or above the quantity required to be reported under the LA Right-To-Know Law;

8. will adopt the National Fire Protection Association Pamphlet 54-1996 edition by reference thereto;

9. will amend three paragraphs in the Louisiana rules to conform to the NFPA 54-1996 edition adopted in rule change 8 above;

10. will allow Class IV Resellers (Wholesalers) to sell liquefied petroleum gases to manufacturers of liquefied petroleum gases and manufacturers of products which liquefied petroleum gas form a component part as well as to dealers who hold permits with the commission;

11. will remove from the Louisiana rules, fire extinguisher requirements and supplant those with the NFPA 58-1995 edition and the Code of Federal Regulations (CFRs) requirements;

12. will require ASME and DOT containers, container appurtenances, piping and equipment connected thereto to be maintained in good operating and mechanical condition at all times;

13. will delete the requirement of Class I and Class IV dealers to report gallons on monthly purchases and sales reports;

14. will clarify transport/delivery truck registration decals and inspection procedures.

The proposed rule changes complies with the statutory authority granted the Commission under LRS 40:1846.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§107. Requirements

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

5.a. Where applicable, applicant must provide adequate transport and/or delivery trucks satisfactory to the commission. Each transport and/or delivery truck used in Louisiana shall be registered in Louisiana and shall be inspected annually by the commission or other qualified agency acceptable to the commission, however any transport and/or delivery truck registered and not being used in Louisiana must either have the inspection required of those used in Louisiana or apply for a waiver of the inspection, in writing, prior to its inspection due by date. Transports and/or delivery trucks granted a waiver of inspection must be inspected prior to their use in Louisiana. Each transport and/or delivery truck registered in Louisiana shall have an annual registration fee of \$50 paid and a valid registration decal affixed to the transport and/or delivery truck.

5.b. ...

6. Applicant must have paid a permit fee in the amount of \$75, except for Class VII-E, which shall be \$100, and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$75 for the first location, plus \$50 for each 2 - 11 locations, plus \$25 for each 12 - infinity locations. For succeeding years the permit fee shall be .1700 of 1 percent of annual gross sales of liquefied petroleum gases with a minimum of \$75, except in the case of Class VI-X which the minimum permit fee shall be \$75 for the

first location, plus \$50 for each 2 - 11 locations, plus \$25 for each 12 - infinity locations, or .1700 of 1 percent of annual gross sales of liquefied petroleum gases of all locations whichever is greater. For Classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$75, except registrations shall be \$37.50 per year.

a. ...

b. The reports of Class IV dealers shall contain the purchases and sales by total dollars and by company name. The reports of Class I dealers shall contain the purchases by total dollars and by company name and sales by total dollars only.

c. - 7. ...

8. All service and installation personnel, fuel transfer personnel, carburetion mechanics and tank truck drivers must have a card of competency from the Office of the Director. All permit holders, except Class VI-X permit holders must have at least one card of competency issued to their permit. A card of competency will be issued to an applicant upon receipt of a \$20 examination fee and successfully passing the competency test, providing the applicant holds some form of identification acceptable to the commission. The commission may accept as its own a reciprocal state's examination which contains substantially equivalent requirements. This must be evidenced by a letter from the issuing authority or a copy of a valid card issued by the reciprocal state. All applicable fees must be paid prior to issuing the card.

a. All cards of competency must be renewed annually by the permit holder. There will be a charge of \$10 per card. After expiration, there will be a penalty of \$3 per card. There will be a charge of \$10 for replacing a lost card; a change of employer; or change of company name. A card with an improper employer or company name shall not be valid.

b. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24: 2311 (December 1998), LR 25:1262 (July 1999), LR 25:

§109. Compliance With Rules

A. ...

B. The commission may assess a civil penalty of not less than \$100 nor more than \$1000 for each violation of the rules and regulations adopted by the commission. Civil penalties may be assessed only by a ruling of the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act. The commission may institute civil proceedings to enforce its ruling in the district court for the parish in which the commission is domiciled or the district court for the parish in which the violation occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 25:

§113. Classes of Permits and Registrations

A. - A.3.b. ...

4. Class IV. Resellers (Wholesalers) Holders of these permits may deliver and transport liquefied petroleum gas over the highways of the state; may sell liquefied petroleum gases only to manufacturers of liquefied petroleum gases, or manufacturers of products which liquefied petroleum gases form a component part, or to dealers who hold a permit with this commission; utilize aboveground steel storage and/or approved salt dome, shale and other underground caverns for the storage of liquefied petroleum gases; do general maintenance work on their equipment, using qualified personnel; but may not sell or install systems and appliances.

a. - a.vi. ...

b. The name of the dealer must appear on all tank trucks which require registration with the commission and storage tank sites.

c. Compliance with all other applicable rules and regulations is required.

5. - 6.a.ii. ...

b. The name of the dealer must appear on storage tank sites.

c. Compliance with all other applicable rules and regulations is required.

7. - 8.c. ...

d. The name of the dealer must appear on all tank trucks which require registration with the commission.

e. Compliance with all other applicable rules and regulations is required.

9. - 9.a.ii. ...

b. The name of the dealer must appear on all tank trucks which require registration with the commission.

c. Compliance with all other applicable rules and regulations is required.

d. Check for emergency permit fee (valid for 90 days only) made payable to the Liquefied Petroleum Gas Commission in the amount of \$100 must be submitted. In the event the applicant desires to obtain a permanent Class VII permit, \$75 of the emergency permit fee will be applicable to that permit fee.

10. - 10.a.vi. ...

b. The name of the dealer must appear on all tank trucks which require registration with the commission and storage tank sites.

c. Compliance with all other applicable rules and regulations is required.

11. - 13.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October

1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:704 (July 1995), LR 24:464 (March 1998), LR 25:

Subchapter B. Dealers

§125. Report Accidents and Fires

A. Any accident involving liquefied petroleum gas or the transportation of liquefied petroleum gas which causes injury to employees, property damage, or injury to other persons or an accidental release of liquefied petroleum gas reportable under the Louisiana Right-To-Know Law shall be reported by that dealer in writing to the office of the director as soon as possible but not later than 48 hours. The office of the director shall accept, in lieu of the required report in writing, data and information from the information system established under the Hazardous Materials Information Development, Preparedness and Response Act.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:465 (March 1998), LR 25:

Subchapter F. Tank Trucks, Semi-Trailer and Trailers

§166. Transport/Delivery Truck Registration Decals and Inspections

A. Dealers who operate transport and/or delivery trucks in the state of Louisiana shall file Form DPSLP 8045 (R/97) with the Office of the Director between the dates of February 1 and April 30 each year to register and pay the required registration fees on all transport and/or delivery trucks used in Louisiana. New equipment and equipment being used for the first time in Louisiana and not registered during the registration period shall be registered and inspected before operating over the highways of the state. Upon payment of the required fee, a registration decal will be issued on Form 8044 (R/97) by the Office of the Director or a registration decal by a commission inspector to be displayed on the registered equipment. It shall be a violation of the commission rules to operate a transport and/or delivery truck over the highways of the state without the registration decal affixed.

B. Safety inspections are required on all transport and/or delivery trucks requiring registration. The required safety inspection shall be performed on all transport and/or delivery trucks registered on Form 8045 (R/97) and used in Louisiana, within a 3 month period prior to or a 3 month period subsequent to their registration. Safety inspections on transport and/or delivery trucks registered on Form 8045 (R/97) and not being used currently in Louisiana shall either (1) be inspected the same as those being used or (2) apply for a waiver of the inspection, in writing, prior to its inspection due by date. Transport and/or delivery trucks granted a waiver of inspection must be inspected prior to their use in Louisiana. Safety inspections shall be performed by: (1) a Liquefied Petroleum Gas Commission inspector; or (2) a qualified agency acceptable to the commission with acceptable documentation that a safety inspection has been

performed by that qualified agency. Safety inspections by the Liquefied Petroleum Gas Commission inspectors shall be free of charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:467 (March 1998), LR 25:

Subchapter G. Systems Utilizing ASME and DOT Containers

§172. Maintenance

ASME and DOT containers, container appurtenances, piping, and equipment connected thereto shall be maintained in good mechanical condition at all times. No leaks or unsafe conditions shall exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 25:

§177. Appliance Installation and Connections

A. - C.2. ...

a. A listed wall-mounted liquefied petroleum gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bathroom of a one or two family, residential dwelling provided that the input rating shall not exceed 6,000 Btu per hour, and combustion and ventilation air is provided in accordance with paragraph 6.1(b) of the National Fuel Gas Code, NFPA-54, that the commission has adopted.

b. A listed wall-mounted liquefied petroleum gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bedroom of a one or two family, residential dwelling provided that the input rating shall not exceed 10,000 Btu per hour, and combustion and ventilation air is provided in accordance with paragraph 6.1.(b) of the National Fuel Gas Code, NFPA-54, that the commission has adopted.

3. Liquefied petroleum gas room heaters may be installed in used manufactured homes as follows if they are:

a. Liquefied petroleum gas listed vented heaters equipped with a 100 percent safety pilot and vent spill switch; and

b. Liquefied petroleum gas listed unvented room heaters equipped with a factory oxygen depletion safety shut-off system; and

c. They are not installed in sleeping quarters or bathrooms; and

d. Their installation is not prohibited by the appliance manufacturer's instructions; and

e. The input rating of the heater(s) does not exceed 20 Btu per hour per cubic foot of space; and

f. Combustion and ventilation air is provided as specified in Part 5.3 of the National Fuel Gas Code, NFPA-54, that the commission has adopted.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:469 (March 1998), LR 25:

Subchapter I. Adoption of Standards

§181. National Fire Protection Association Pamphlet Numbers 54 and 58

A. The Liquefied Petroleum Gas Commission hereby adopts the *National Fuel Gas Code*, 1996 edition. The National Fire Protection Association designation is *NFPA 54-1996*. The Liquefied Petroleum Gas Commission also adopts the *Standard for the Storage and Handling of Liquefied Petroleum Gases*, 1995 edition. The National Fire Protection Association designation is *NFPA 58-1995*.

B. - D. ...

E. The following are exceptions to the code and standard referenced in §181.A:

1. With regard to §2.6.6, *Protective Coatings*, in NFPA 54 galvanized pipe and fittings, copper pipe and fittings, and copper tubing and fittings may be used to meet this requirement;

2. With regard to §3.1.2, *Protection Against Damage*, in NFPA 54 pipe must be buried at a minimum to the depth of the frost line and shall be protected where there is heavy vehicular traffic and protected against physical damage where such damage is reasonably expected;

3. With regard to §3.1.3, *Protection Against Corrosion*, in NFPA 54 the provisions shall be considered met in Louisiana when galvanized pipe and fittings, copper pipe and fittings or copper tubing and fittings are used;

4. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:470 (March 1998), LR 25:

The commission will hold a public hearing October 28, 1999, 1723 Dallas Drive, Baton Rouge, LA, at 8:30 a.m. in regard to these changes.

Written comments will be accepted through October 20, 1999 and should be sent to Charles M. Fuller at P.O. Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended actions.

Charles M. Fuller
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Liquefied Petroleum Gas—General Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a small implementation cost to the state governmental units estimated to be \$3,600 in FY 99-00 and no cost in future years. There will be no implementation costs to any local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a loss in revenues to the state governmental unit in FY 99-00 calculated to be \$3,225 and succeeding fiscal

years a loss of \$6,450 per year as a result of the proposed actions. There will be no loss in revenues to any local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be a net decrease in costs to the liquefied petroleum gas permit holders calculated to be \$3,225 for FY 99-00 and \$6,450 for each future year. There will be no costs or economic benefit to any other group, person or non-governmental unit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact or effect on competition and employment because of the proposed actions.

Nancy Van Nortwick
Undersecretary
9909#025

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

Requirements; Compliance with Rules; Classes of Permits; Report Accidents; Inspections and Transport/Delivery Truck Registration Decals (LAC 55:IX.1507, 1509, 1513, 1523, 1543)

In accordance with the provisions of R. S. 49:950 et seq., the Administrative Procedure Act, and R. S. 3:1354 relative to the authority of the Liquefied Petroleum Gas Commission to promulgate and enforce rules and regulations governing the storage, utilization, sale or transportation of anhydrous ammonia, the fabrication and installation of systems for the storage and utilization of anhydrous ammonia and installation of all other anhydrous ammonia equipment, notice is hereby given that the Commission proposes to amend its rules.

The proposed rule changes will do nine things:

1. will require the registration of all tanker trucks of one thousand gallons or more used to transport anhydrous ammonia in Louisiana and pay an annual registration fee of \$50, as mandated by Act 585 of the 1999 Regular Session;

2. will require all service and installation personnel, fuel transfer personnel, and tank truck drivers to successfully pass a personnel competency test and pay a fee of \$20 for administration of the test which will include the first year's competency card and will allow the commission to enter into reciprocal agreements with other states regarding examination requirements and accept as their own the results of the reciprocal state's examination, with each state retaining its own fee structure regarding examinations and other applicable fees, as mandated by Act 585 of the 1999 Regular Session;

3. will require personnel which have passed the competency test to renew their competency card annually and pay a fee of \$10 for renewal, as mandated by Act 585 of the 1999 Regular Session;

4. will increase the penalty authority of the commission from a minimum of \$50 and a maximum of

\$500 to a minimum of \$100 and a maximum of \$1000 for violation of its rules, as mandated by Act 585 of the 1999 Regular Session;

5. will require Class A-3 permit holder's name to appear on stationary storage tank sites;

6. will require Class A-4 permit holder's name to appear on tank trucks which require registration with the commission;

7. will require Class A-4E permit holder's name to appear on tank trucks which require registration with the commission;

8. will clarify accident reporting requirements to the commission and include reporting to the commission accidental releases at or above the quantity required to be reported under the Louisiana Right-To-Know Law.

9. will clarify inspections and transport/delivery truck registration decal procedures.

The proposed rule changes complies with the statutory authority granted the commission under LRS 3:1354.

Title 55

Part IX. Liquefied Petroleum Gas

Chapter 15. Sale, Storage, Transportation and Handling of Anhydrous Ammonia

Subchapter A. New Dealers

§1507. Requirements

A. - D.1. ...

E. Where applicable, applicant must provide adequate transport and/or delivery trucks satisfactory to the commission. Each transport and/or delivery truck *used* in Louisiana shall be *registered* in Louisiana and shall be *inspected* annually by the commission or other qualified agency acceptable to the commission, however any transport and/or delivery truck registered and not being used in Louisiana must either have the inspection required of those used in Louisiana or apply for a waiver of the inspection, in writing, prior to its inspection due by date. Transports and/or delivery trucks granted a waiver of inspection must be inspected prior to their use in Louisiana. Each transport and/or delivery truck registered in Louisiana shall have an annual registration fee of \$50 paid and a valid registration decal affixed to the transport and/or delivery truck

H. All service and installation personnel, anhydrous ammonia transfer personnel and tank truck drivers must have a card of competency from the office of the director. All permit holders, except Class A-3 permit holders, must have at least one card of competency issued to their permit. A card of competency will be issued to an applicant upon receipt of a \$20 examination fee and successfully passing the competency test, providing the applicant holds some form of identification acceptable to the commission. The commission may accept as its own a reciprocal state's examination which contains substantially equivalent requirements. This must be evidenced by a letter from the issuing authority or a copy of a valid card issued by the reciprocal state. All applicable fees must be paid prior to issuing the card.

H.1. All cards of competency must be renewed annually by the permit holder. There will be a charge of \$10 per card for renewals. After expiration, there will be a penalty of \$3 per card. There will be a charge of \$10 for replacing a lost card, change of employer, or change of company name. A

card with an improper employer or company name shall not be valid.

H.2. - L. ...

AUTHORITY NOTE: Promulgate in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:898 (July 1993), LR 25:

§1509. Compliance with Rules

A. ...

A.1. The commission may assess a civil penalty of not less than \$100 nor more than \$1000 for each violation of the rules and regulations adopted by the commission. Civil penalties may be assessed only by a ruling of the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act. The commission may institute civil proceedings to enforce its ruling in the district court for the parish in which the commission is domiciled or the district court for the parish in which the violation occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:899 (July 1993), LR 25:

§1513. Classes of Permits

A. - A.3.i. ...

j. The dealer's name shall appear on all stationary storage tank sites.

A.4. - A.5.i. ...

j. The dealer's name shall appear on all tank trucks which require registration with the commission.

A.6. - A.6.h. ...

i. Compliance with all other applicable rules and regulations will be required.

j. The dealer's name shall appear on all tank trucks which require registration with the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:899 (July 1993), LR 25:

Subchapter B. Dealers

§1523. Report Accidents

A. Any accident involving anhydrous ammonia or the transportation of anhydrous ammonia which causes injury to employees, property damage, injury to other persons, a fire or an accidental release of anhydrous ammonia that is reportable under the Louisiana Right-To-Know Law shall be reported by that dealer in writing to the office of the director as soon as possible but not later than 48 hours. The office of the director shall accept, in lieu of the required report in writing, data and information from the information system established under the Hazardous Materials Information Development, Preparedness and Response Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:902 (July 1993), LR 25:

§1543. Inspections and Transport/Delivery Truck Registration Decals

A. - C. ...

D. Dealers who operate transport and/or delivery trucks in the state of Louisiana shall file Form DPSLP 8045 (R/97) with the Office of the Director between the dates of February 1 and April 30 each year to register and pay the required registration fees on all transport and/or delivery trucks *used* in Louisiana. New equipment and equipment being *used* for the first time in Louisiana and not registered during the registration period shall be registered and inspected before operating over the highways of the state. Upon payment of the required fee, a registration decal will be issued on Form 8044 (R/97) by the Office of the Director or a registration decal by a commission inspector to be displayed on the registered equipment. It shall be a violation of the commission rules to operate a transport and/or delivery truck over the highways of the state without the registration decal affixed.

E. Safety inspections are required on all transport and/or delivery trucks requiring registration. The required safety inspection shall be performed on all transport and/or delivery trucks registered on Form 8045 (R/97) and *used* in Louisiana, within a 3 month period prior to or a 3 month period subsequent to their registration. Safety inspections on transport and/or delivery trucks registered on Form 8045 (R/97) and not being *used* currently in Louisiana shall either be inspected the same as those being used or apply for a waiver of the inspection, in writing, prior to its inspection due by date. Transport and/or delivery trucks granted a waiver of inspection must be inspected prior to their use in Louisiana. Safety inspections shall be performed by a Liquefied Petroleum Gas Commission inspector or a qualified agency acceptable to the commission with acceptable documentation that a safety inspection has been performed by that qualified agency. Safety inspections by the Liquefied Petroleum Gas Commission inspectors shall be free of charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:903 (July 1993), LR 25:

The commission will hold a public hearing October 28, 1999, 1723 Dallas Drive, Baton Rouge, LA, at 8:30 a.m. in regard to these changes.

Written comments will be accepted through October 20, 1999 and should be sent to Charles M. Fuller at P.O. Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended actions.

Charles M. Fuller
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Requirements; Compliance With Rules;
Classes of Permits; Report Accidents; Inspections and
Transport/Delivery Truck Registration Decals**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a small implementation cost to the state governmental units estimated to be \$3,810 in FY 99-00 and no cost in future years. There will be no implementation costs to any local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase in revenues to the state governmental unit in FY 99-00 of \$2,248 and \$4,495 for succeeding fiscal years as a result of the proposed actions. There will be no increase or decrease in revenues to any local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be an increase in costs to the Anhydrous Ammonia permit holders calculated to be \$2,248 for FY 99-00 and \$4,495 for each future fiscal year. There will be no costs or economic benefit to any other group, person or non-governmental unit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact or effect on competition and employment because of the proposed actions.

Nancy Van Nortwick
Undersecretary
9909#017

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Services Provided by Persons and Business Entities
(LAC 55:III.1517, 1527, 1551-1571)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, hereby gives notice of intent to adopt rules pertaining to public tag agents and related matters pursuant to R.S. 32:735(B) and R.S. 47:532.1, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The proposed rules address the application process and regulation of public tag agents who collect the vehicle registration license tax, collect the state and local sales taxes, and issuance of the permanent metal plate in connection with the initial registration of certain motor vehicles.

These rules also address the eligibility requirements for auto title companies, and the application of the federal Driver Privacy Protection Act to public tag agents.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

**Chapter 15. Services Provided by Persons and
Business Entities**

Subchapter A. Auto Title Companies

**§1517. License Suspension, Revocation, Cancellation,
Nonissuance, or Restrictions**

The following actions by a licensee or applicant or any of the licensee's or applicant's employees, managers, agents, representatives, officers, directors or owners may subject the licensee or applicant to suspension, revocation, or cancellation of the license by the department or the imposition of license restrictions by the department. Additionally, the department may deny an application and refuse to issue a license for any of the following actions by a licensee or applicant or any of the licensee's or applicant's employees, managers, agents, representatives, officers, directors or owners:

1. - 3. ...

4.a. the issuance of more than one temporary registration (T-marker) to a title applicant, or

b. the issuing of a T-marker without first collecting all taxes and fees and requiring the title applicant to show proof of compliance with the compulsory insurance law.

5. - 14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998), amended LR 25:

**§1527. Name, Trade Name, Advertisements, and Other
Signage of Auto Title Companies**

A. Since auto title companies may charge convenience fees and may offer services not available at an Office of Motor Vehicles field office, no auto title companies shall display any sign which may mislead the public into believing that the auto title company's office or business establishment is a field office of the Office of Motor Vehicles except as otherwise provided in Chapter 15.

B. No auto title company shall display any sign, logo, business name, or trade name, or cause to be advertised any sign, logo, business name, or trade name which includes the words "office of motor vehicles," "motor vehicle office," or "motor vehicles office," or any similar phrases, unless the sign, logo, business name, trade name, or advertisement clearly and prominently includes a statement indicating the business's status as an auto title company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Subchapter B. Public Tag Agents

§1551. Definitions

As used in Chapter 15, Subchapter B, the following terms have the meanings described below.

Commissioner—Deputy Secretary of the Department of Public Safety and Corrections, Public Safety Services.

Department—Department of Public Safety and Corrections, Office of Motor Vehicles.

Driver Privacy Protection Act—the federal Driver Privacy Protection Act of 1994 (DPPA) (Title XXX of P.L.

103-322), 18 U.S.C. §2721 et seq., as implemented by the Department in the *Louisiana Administrative Code*, Title 55, Part III, Chapter 5, Subchapter B.

Personal Information—information which includes the full name, complete physical address, and date of birth, driver's license number, and social security number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

**§1553. Authority; Businesses and Governmental
Entities**

A. R.S. 47:532.1 authorizes the Commissioner to establish a system of public tag agents authorized to collect the registration license taxes, as well as applicable sales and use taxes, and issue registration certificates and license plates to motor vehicles. An agent may be either a municipal or parish governing authority, a new motor vehicle dealer or his agent, or an auto title company. Public tag agents shall also be authorized to receive and process applications filed for certificates of title, duplicate certificates of titles, corrected certificates of title, recordation of liens, mortgages, or security interests against motor vehicles, conversions of plates, transfers of plates, replacements of lost or stolen plates and/or stickers, renewals of registration, duplicate registrations, and additional applications or transactions authorized by the commissioner.

B. The Commissioner and a public tag agent, other than municipal and parish governing authority, shall enter into a contract which shall state the required procedures for the implementation of authorized activities. See §1569 for a copy of the contract.

C. With the exception of the requirements for a surety bond, all rules and regulations as well as all contractual provisions shall apply to municipal and parish governing authorities acting as public tag agents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1555. Convenience Fee

Public tag agents are authorized to collect a convenience fee in addition to the registration license tax. The convenience fee shall not exceed ten dollars (\$10.00) per license and may be retained by the public tag agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1557. Administrative Actions

A.1. The Deputy Secretary or his designee may suspend, revoke, cancel, or terminate the public tag agent's authority upon a violation by the agent or any agent's officers, directors, employees, owners, or other representatives of any responsibility or requirement established pursuant to the contractual agreement. LAC 55, Part III, Chapter 15, Subchapter B, or R.S. 47:532.1. In lieu of any of the previously listed actions, the Deputy Secretary may take other administrative action for such a violation including but not limited to the imposition of a fine or other sanction.

2. Additionally, the Deputy Secretary or his designee may suspend, revoke, cancel, or terminate the status of any person who is an employee, officer, director, or other

representative of the public tag agent upon a violation of any responsibility or requirement established pursuant to the contractual agreement. LAC 55, Part III, Chapter 15, Subchapter B, or R.S. 47:532.1. It shall be the responsibility of the public tag agent to insure that all employees, officers, directors, or other representatives of the public tag agent are familiar with these responsibilities and requirements.

B. Any request for an administrative hearing to review an action, order, or decision of the Department, relating to a public tag agent or any of the agent's officers, directors, employees, or other representatives, shall be made in writing and received by the Department no later than thirty days from the date the notice of the action, order, or decision was mailed or hand delivered, as the case may be. Any request for an administrative hearing shall be mailed to the Office of Motor Vehicles, Attention Hearing Request, P.O. Box 66614, Baton Rouge, Louisiana 70896 or hand delivered to the Office of Motor Vehicles Headquarters in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1559. Applications

A. Those persons interested in becoming a public tag agent may inquire at the following address: Attention: Planning & Coordination, Office of Motor Vehicles, Post Office Box 64886, Baton Rouge, LA 70896.

B. No person shall act as a public tag agent until after submitting an application to the Department on the approved form, and after the application has been approved by the Department.

C. No person shall act as an employee, officer, director, or other representative of a public tag agent until after the person submits an application to the Department on the approved form, and after the application has been approved by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1561. Eligibility, Suspension, Revocation, or

Cancellation of Public Tag Agent's Authority

A. The following actions by a public tag agent, or by any of the public tag agent's employees, officer's, directors, managers, representatives, or owners, may subject the public tag agent to suspension, revocation, or cancellation of the public tag agent's authority by the Department. In the alternative, the Department may impose restriction on the public tag agent's authority as a result of any of the following actions by the public tag agent or applicant, or by any of the public tag agent's employees, officer's, directors, managers, representatives, or owners. The Department may also deny an application and refuse to grant the applicant authority to act as a public tag agent as a result of any of the following actions by the applicant, or by any of the applicant's employees, officer's, directors, managers, representatives, or owners:

1. Failure to remit taxes and fees collected from applicants for title transfers.

2. Repeated late filings.

3. Operating as an auto title company or public tag agent without a license or authorization for each location,

with an expired license or authorization, or without a valid surety bond on file with the Office of Motor Vehicles.

4.a. The issuance of more than one temporary registration (T-marker) to a title applicant, or

b. The issuance of a T-marker without first collecting all taxes and fees and requiring the title applicant to show proof of compliance with the compulsory insurance law.

5. Operating from an unlicensed or unauthorized location.

6. Changing the ownership of the public tag agent and not reporting in writing to the Office of Motor Vehicles within thirty (30) days from the date of such change.

7. Changing the officers or directors of the public tag agent and not reporting in writing to the Office of Motor Vehicles within thirty (30) days from the date of such change.

8. Being a principal or accessory to the alteration of documents relevant to a registration or titling transaction that results in material injury to the public records or a short fall in the collection of taxes owed.

9. The forwarding to the Office of Motor Vehicles by a public tag agent of a document relevant to a registration or titling transaction that results in a material injury to the public records, or a short fall in the collection of taxes owed when the public tag agent had knowledge of facts causing such injury or shortfall, and failed to disclose the same to the Office of Motor Vehicles.

10. Conviction of, or an entry plea of guilty or nolo contendere to, any felony or conviction of, or an entry plea of guilty or nolo contendere to, any criminal charge, an element of which is fraud.

11. Fraud, deceit, or perjury in obtaining any license issued under this Chapter.

12. Failure to maintain at all times during the existence of the authorization, all qualifications required for issuance or renewal of the authorization.

13. Any material misstatement of fact or omission of fact in any application for the issuance or renewal of an authorization for a public tag agent.

14. The repeated submission of checks which have been dishonored by the bank on which the check was drawn.

B. The Department may revoke, suspend, or cancel any approval, license or permit of any employee, officer, director, manager, representative, or owner of a public tag agent who violates any provision of paragraph A of §1561. Any person subject to an order as provided in this paragraph shall not work for, or be associated with, the public tag agent in any manner unless approved by the Department in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1563. Name, Trade Name, Advertisements, and Other Signage of Public Tag Agents

No public tag agent shall display any sign, logo, business name, or trade name, or cause to be advertised any sign, logo, business name, or trade name which includes the words "office of motor vehicles," "motor vehicle office," or "motor vehicles office," or any similar phrases, unless the sign, logo, business name, trade name, or advertisement

clearly and prominently includes a statement indicating the business's status as a public tag agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1565. Driver Privacy Protection Act

Every applicant for a driver's license, certificate of title, or for a new or renewed vehicle registration at a public tag agent's place of business shall be given the opportunity to prohibit the disclosure of personal information as defined in LAC 55, Part III, Chapter 5, §553, Subchapter B, by completing the Department's approved form, and submitting the form to the public tag agent. The public tag agent shall forward the properly completed form to the Department. The public tag agent shall advise the person submitting the form that any form which is incomplete or which is illegible shall not be processed and shall not be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1567. Bond Requirement

All public tag agents other than municipal and parish governing authorities shall furnish security for the faithful performance of their duties as follows:

1. Each public tag agent other than a municipal governing authority shall execute a good and sufficient surety bond with a surety company qualified to do business in Louisiana as surety, in a sum of not less than ten thousand dollars nor more than one hundred thousand dollars, if surety bond is available for purchase, which bond shall name the Department of Public Safety and Corrections, Office of Motor Vehicles as obligee and shall be subject to the condition that, if such public tag agent shall, throughout the entire term of the bond, timely file with the office of motor vehicles all applications delivered to such public tag agent for filing, and all fees and taxes collected by such public tag agent, the obligation shall be void. If the company does not do so, the obligation of the surety shall remain in full force and effect. A public tag agent having multiple locations need furnish only a single ten thousand dollar surety bond in addition to any other bonds required by law.

2. The surety bond furnished pursuant to §1567 shall be delivered to and filed with the Department of Public Safety and Corrections, Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1569. Contracts

A. The commissioner and public tag agents other than municipal and parish governing authorities may enter into contracts which shall state the required procedures for the implementation of LAC 55, Part III, Chapter 15, Subchapter B. Such contracts may terminate upon violation of R.S. 47:532.1, LAC 55, Part III, Chapter 15, Subchapter B, or the provisions of the contract between the Department and the public tag agent foregoing provisions.

B. The contract between the Department and a public tag agent shall contain the following language and provisions subject to any revisions, additions, or deletions approved by the Deputy Secretary:

STATE OF LOUISIANA
DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS
OFFICE OF MOTOR VEHICLES
ELECTRONIC PUBLIC LICENSE TAG AGENT'S CONTRACT

THIS AGREEMENT made and entered into on this date day of month, year, by and between the Deputy Secretary for the Department of Public Safety & Corrections, (hereafter referred to as Deputy Secretary), pursuant to authority vested in him by L.R.S. 47:532.1, wherein it is provided that the Deputy Secretary may establish a system of public tag agents. This contract is restricted to new motor vehicle dealers or their agents licensed pursuant to the provisions of L.R.S. 32:1254, and to auto title companies licensed pursuant to the provisions of L.R.S. 32:735.

WHEREAS, it is the intent of the Deputy Secretary to establish Agent(s) to make vehicle licensing services available directly to new motor vehicle dealers and auto title companies without requiring such dealer or title company representative(s) to visit a full-service branch office of the Office of Motor Vehicles (hereafter referred to as OMV) and

WHEREAS, it is the desire of the Deputy Secretary that an Agent or Agents be established and maintained at various locations within Louisiana for the purposes of receiving applications for the titling and registration of motor vehicles, issuing motor vehicle temporary registrations, license plates and/or decals and the collection of fees, taxes, penalties and other monies in connection therewith, and for the purposes incident to the duties of such Agent(s), the said Deputy Secretary hereby appoints as Agent, _____, subject to the conditions hereinafter set forth.

NOW, THEREFORE, WITNESSED THIS AGREEMENT;

1. THE TERM of this agreement shall be for the period beginning on the date day of month, year, and ending on the 31st day of May year, and this agreement shall thereafter continue from year-to-year, beginning on the first day of June and ending on the last day of May of the next succeeding year unless otherwise terminated by Agent upon thirty (30) days notice in writing to the Deputy Secretary, or by the Deputy Secretary for just cause at any time.

2. AGENT agrees to act as a public tag agent for the Deputy Secretary and to maintain, at Agent's expense, an Electronic Dealer License Agency of the Office of Motor Vehicles (OMV) at _____, Louisiana, or other such locations as Agent may establish and agree upon by the Deputy Secretary, and in accordance with the guidelines hereinafter established.

3. AGENT shall at its own expense cooperate with the OMV to establish electronic interface capability which will enable Agent to receive and transmit electronic information concerning the registration and titling of motor vehicles, to enable Agent to process files at its office, and to enable Agent to efficiently input and issue temporary vehicle registrations and license plates at no cost to OMV. The equipment and procedures used by Agent must meet the standards of compatibility established by Department of Public Safety and Corrections, Public Safety Services, Data Center.

4. AGENT shall designate at least one full-time employee as an authorized user of the OMV approved electronic network, and shall limit access to said network to those employees who have been so designated and who have also been appointed by the Agent and confirmed by the Deputy Secretary as authorized users of the network. Agent shall notify OMV of changes of authorized user personnel (as appointed) within forty-eight (48) hours, and confirmation or rejection by the Deputy Secretary of such changes shall be made within fourteen (14) days.

5. THE DEPUTY SECRETARY will make available to Agent, by way of the OMV approved electronic network, access to OMV vehicle record files, such access to be limited in scope to that information needed by Agent as an Electronic Dealer License Agent and in the conduct of the business of the Agent. The information obtained through such access is to be used exclusively for the conduct covered by this agreement and Agent is prohibited from disseminating the information received from OMV for any other purpose whatsoever.

6. THE DEPUTY SECRETARY may establish reasonable standards for the operation of participating Agents. The standards will be detailed in a publication entitled "Vehicle Registration Guidebook for Licensed Agents." These standards as established by the Deputy Secretary or the Director of the Data Center for Public Safety Services of the Department of Public Safety & Corrections shall become and are to be considered to be a part of this contract as such reasonable standards are developed, and Agent agrees to abide by them.

AGENT specifically agrees:

a. To attend, and to have all authorized users of the OMV approved electronic network attend, training workshops provided for agents;

b. To deliver all monies and documents collected as Agents to the Office of Motor Vehicles as under the same rules as branch OMV offices, or as directed by the Deputy Secretary by such means as the Deputy Secretary may direct;

c. To issue temporary registration plates, license plates, decals or any other OMV related materials to OMV customers only in accordance with the vehicle registration guidebook for Agents and other pertinent OMV procedures as promulgated from time to time;

d. To submit reports, including daily activity reports, inventories of temporary registration plates and decals, and such other reports as may be required by the Deputy Secretary, and in all other respects to comply with the laws of the State of Louisiana;

e. To receive, securely store, issue, account for, and be fully responsible for such temporary registrations, license plates or decals or other items of value as may be entrusted to Agent by the Deputy Secretary.

7. AGENT will receive no compensation from the Deputy Secretary in connection with this agreement. Agent will bear the cost of all physical equipment, i.e., telephone lines, computers, computer programming and other costs to be agreed upon.

8. FUNDS received by Agent from other business pursuits or activities not related to OMV license agency work shall not be commingled.

9. THE DEPUTY SECRETARY, or his designated representative, during normal working hours, shall have the right to inspect and audit such records and reports as Agent is required to maintain at reasonable times and places during the term of this agreement and for one year thereafter; likewise, the Legislative Auditor and the Secretary of the Department of Revenue would have the right to inspect the records of Agent.

10. AGENT shall safeguard the electronic equipment which provides access to OMV approved electronic network and limit access to said equipment and to the data and information from OMV files which are available through said equipment to those persons who are authorized users of the network (and who have been appointed by the Deputy Secretary and who have been properly instructed as to their duties and responsibilities as authorized users under this contract).

11. AGENT shall keep copies of registrations until written authorization is received from the Department approving destruction.

12. AGENT shall implement procedures to ensure that any other printed copy of a vehicle record obtained from OMV files shall be destroyed when its legitimate use is complete.

13. THE DEPUTY SECRETARY may suspend or terminate the access privileges of Agent upon the breach of or failure to fulfill any responsibility established pursuant to this agreement or for any conviction of a violation of Louisiana Statutes related to this agreement.

14. AGENT may only access OMV for computer files during the normal departmental office hours which excludes, for example, evening, weekend, and holiday access, unless prior permission is granted.

15. AGENT shall comply with all laws relating to privacy, shall not sell or disseminate information obtained from OMV computer files, nor compile any lists of individuals obtained by virtue of access to OMV files for purposes of soliciting business or advertisement.

16. AGENT shall be liable for and shall indemnify and hold harmless the Deputy Secretary and OMV for any misuse or misappropriation of any vehicle record or related information obtained from OMV in connection with this Contract. Agent likewise shall be liable and will hold OMV harmless for any damages resulting from the acts or omission of Agent or Agent's personnel relating to Agent's duties hereunder in registering or titling vehicles, issuing motor vehicle temporary plates, license plates, and/or decals, the collection and handling of taxes, fees and other monies collected in connection therewith, safeguarding OMV materials such as license plates and decals, or other activity undertaken by Agent under this contract, including, without limitation, reasonable attorney's fees, tax penalty: 5% of sales tax due for thirty (30) days or fraction thereof (not to exceed 25%), interest: 1.25% of sales tax due for thirty (30) days or fraction thereof (15% Annum with no maximum) on taxes collected but not paid to the state and other costs of defending any such action or claim.

17. AGENT shall be responsible for funds paid to Agent by dealer related to transactions processed by Agent. Under no circumstances shall the Agent be responsible for checks or money orders issued to OMV by dealer. Agent shall be able to attach "Dealer's Bond" in cases of dealer issuing agent a "bad check."

18. AGENT having a single location shall execute and furnish an acceptable surety bond in the minimum amount of twenty-five thousand dollars (\$25,000.00) with the Department of Public Safety & Corrections. Agent having multiple locations shall furnish an acceptable surety bond in

the amount of thirty-five thousand dollars (\$35,000.00) with the Department of Public Safety & Corrections.

19. AGENT is authorized to collect a convenience fee in addition to the registration license tax. The convenience fee shall not exceed ten dollars (\$10.00) per license. This fee may be retained by the public tag agent (R.S. 47:532.1(C)).

20. THIS AGREEMENT shall not be assigned.

21. THIS AGREEMENT shall not become effective until the agent has complied with all of the requirements of this contract.

22. THIS AGREEMENT is subject to revision and amendment if necessary to implement new law.

IN WITNESS WHEREOF, the said parties have hereunto set their hands the day and year first written above.

Office of Motor Vehicles	Agent, By:
Department of Public Safety and Corrections State of Louisiana	Signature _____
Deputy Secretary	Print Name _____
Approved as to form:	Name of Business or Company _____
Attorney for OMV	Physical Address _____
	Mailing Address _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

§1571. Declaratory Orders and Rulings

A. Any person desiring a ruling on the applicability of any statute, or the applicability or validity of any rule in LAC 55, Part III, Chapter 15, Subchapter B, regarding public tag agents, shall submit a written petition to the deputy secretary. The written petition shall cite all, constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the deputy secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition includes reference to a specific transaction handled by the Department or a public tag agent, or if the petition relates to the issuance, revocation, cancellation, or denial of any license, permit or authorization, then the person submitting the petition shall also submit proof that he has notified all of the persons involved in the transaction or issuance, revocation, cancellation, or denial of the license, permit or authorization by certified mail, return receipt requested. If the person is unable to notify the involved person or persons after otherwise complying with the notice requirement, he shall so state in his petition.

C. The deputy secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The deputy secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the deputy secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as the security provider receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The deputy secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1 and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Persons having comments or inquiries regarding these proposed rules may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by Friday, October 22, 1999. A public hearing on these rules is tentatively scheduled for Monday, October 25, 1999, at 9:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*.

1. The Effect on the Stability of the Family. These rules should have no effect on the stability of the family. These rules only provide an alternative means for individuals to title and register motor vehicles without appearing at a Motor Vehicles field office.

2. The Effect on the Authority and Right of Parents Regarding the Education and Supervision of their Children. These rules do not address education or parental supervision.

3. The Effect on the Functioning of the Family. These rules should not impact the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Those persons who choose to use a public tag agent's office as opposed to a Motor Vehicle field office may pay a convenience fee up to \$10.

5. The Effect on the Behavior and Personal Responsibility of Children. These rules should not affect children as they cannot own property.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. There rules should make it easier for family members to title and register motor vehicles. These rules do not affect local governments as only the state titles and registers motor vehicles.

Nancy Van Nortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Services Provided by Persons and Business Entities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no cost to state government to implement these amended and proposed rules as the Department is already providing these services and regulating the involved entities. There should be no costs to local governments as only the state regulates these entities. Local governments do not issue motor vehicle titles or registrations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no change in revenue collections to either the state or local governments in connection with the implementation of these rules. As stated above, the Department is already providing these services and regulating the involved entities. There should be no change in revenue collections to local governments as only the state regulates these entities. Local governments do not issue motor vehicle titles or registrations.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only costs to the regulated entities would be to those entities which use the following or similar phrases in their names, advertising, trade names, logos, etc.: office of motor vehicles, motor vehicles office, or motor vehicle office. These entities would incur the costs necessary to bring themselves into compliance with the proposed rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

Nancy Van Nortwick
Undersecretary
9909#052

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police Safety Enforcement Section

Motor Vehicle Inspection Program
(LAC 55.III.801-835)

Under the authority of R.S. 32:1301 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section (Department), hereby gives notice of intent to repeal existing sections of the Vehicle Inspection Rules and Vehicle Emission Rules, and to adopt new rules regulating vehicle inspections and vehicle emissions.

The proposed new rules address the following five general areas: safety inspections, vehicle inspection and maintenance

programs, inspection procedures for school buses, federal motor carrier safety regulations, and general administrative matters. These rules shall govern the appointment, operation, and termination of inspection stations. The existing rule regarding out-of-state inspection stations, LAC 55:III.808 is retained.

The following is a list of sections in the *Louisiana Administrative Code* which the Department intends to repeal: LAC 55, Part III, Chapter 8, §§801, 803, 805, 807, 809, 811, 813, 815, 817, 819, 821, 823, 825, 827, 829, 831, 833, 835, 837, 839, 841, 843, 845, and 847; LAC 55, Part III, Chapter 9, §§901, 903, 905, 907, and 909; LAC 55, Part III, Chapter, §808, adopted on December 20, 1997 in Volume 23, Number 12 of the Louisiana Register, which authorized out-of-state inspection stations is not repealed, but is retained in Chapter 8 along with the following proposed rules.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 8. Motor Vehicle Inspection

Subchapter A. General

§801. Definitions

As used in this chapter, the following terms have the meanings described below:

Department—Department of Public Safety & Corrections, Office of State Police, Safety Enforcement Section.

Deputy Secretary—Deputy Secretary of the Department of Public Safety and Corrections, Public Safety Services.

Person—an individual, partnership, corporation, limited liability company, or other legal entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§803. Foreword

A. The inspection of vehicles as prescribed in the Louisiana Motor Vehicle Inspection Law is conducted in privately-owned and operated garages and repair shops which have been approved by the Louisiana Department of Public Safety and Corrections. Although these approved inspection stations are privately owned businesses, the inspection of vehicles in compliance with the law is not entirely a private matter. During the course of performing these inspections, the station and its personnel are acting as representatives of the State of Louisiana. The guiding principal of station personnel should be, and must be, providing honest and efficient service to the citizens of our state.

B. Official motor vehicle inspection station operators and employees should be courteous and patient when explaining that the requirements of the motor vehicle inspection laws are designed to promote safety. It should be clearly understood by all employees that the primary function of the inspection station is not an arbitrary enforcement of the law but rather the advancement of highway safety.

C. All inspection station personnel must adopt the attitude that they sell safety. They must also bear in mind that the placement of one inspection certificate on an unsafe

vehicle may be the cause of a serious crash. They owe a duty to themselves, their families, other vehicle owners and operators not to jeopardize lives through error, carelessness or indifference.

D. The Official Motor Vehicle Inspection Station License may be revoked if any station owner, operator or employee fails to achieve and maintain a priority standard of service to the motoring public.

E. Each official Motor Vehicle Inspection station shall give priority to customers seeking motor vehicle inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

Subchapter B. Safety Inspections

§805. Requirements, Duties, Responsibilities

A. Classes of Inspection Stations. The classes of Official Motor Vehicle Inspection (MVI) Stations authorized in Louisiana are:

1. Public Station. Stations authorized by the Louisiana Department of Public Safety and Corrections to inspect any and every vehicle presented for inspection. When warranted and approved by the Department, certain stations may be designated to inspect only specific classes of vehicles. When authorizing a public station to inspect only a certain class vehicle, the class of vehicle to be inspected and justification for each authorization shall be noted in the remarks section of the station application form. Such stations will display a sign immediately adjacent to the official Motor Vehicle Inspection sign designating the classes of vehicles which can be inspected. The designation of a specific class of vehicle to be inspected by a station may be as follows:

- a. trucks and trailers only;
- b. passenger vehicles and light duty trucks only;
- c. boat trailers only;
- d. motorcycles only; and
- e. stations inspecting commercial vehicles and school buses are required to have special authorization from the Safety Enforcement Supervisor;

2. Dealer Station. Any person, association or corporation licensed as a dealer of vehicles which are subject to registration may be licensed as an official MVI dealer inspection station. These stations may only conduct inspections of both new and used vehicles owned by the dealer which are for sale or demonstration. A notation will be made in the remarks section of the application form indicating what type of vehicles are to be inspected. When a dealer is authorized to inspect, it is mandatory that all vehicles sold as new or used must be properly inspected and a valid inspection certificate affixed thereto as prescribed by the Motor Vehicle Inspection Regulation;

3. Fleet Station. Any motor vehicle repair or maintenance shop operated or maintained by a person, firm or corporation in whose name ten (10) or more vehicles are licensed under the provisions of L.R.S. 47:462, may be designated as an official fleet MVI station. Fleet stations may inspect only those vehicles registered to or under bona fide lease to the company designated as an official fleet inspection station;

4. Government Station. A town, municipality, city, parish or state agency to which the Department has granted authority to inspect vehicles owned and registered to these

government agencies. These stations will not be approved unless they have their own repair shop;

5. School Board Station. A school board may be granted authority to inspect and certify vehicles operated or contracted by that board;

6. Nonattainment area stations are inspection stations receiving specialized training and licensing. Only Nonattainment Area Stations are permitted to inspect vehicles registered within this area. The Nonattainment Area consists of five parishes. These parishes are designated by the four digit domicile code on the registration. Domicile codes beginning with 03 (Ascension Parish), 17 (East Baton Rouge), 24 (Iberville Parish), 32 (Livingston Parish), or 61 (West Baton Rouge) are within the Nonattainment Area.

B. Request for Appointment as an Official Inspection Station

1. A written request must be submitted to the Safety Enforcement Sergeant in the District where the business is located in order to become an official MVI station. A Safety Enforcement Officer will be assigned to inspect the premises and interview the personnel to determine that all minimum requirements are met.

2. Should a person, firm or corporation currently operating a motor vehicle inspection station make application to add commercial inspections at their location, a thorough investigation and evaluation of the performance of the existing station will be conducted. Should the investigation show that the existing station has been operated within the rules and regulations of the motor vehicle inspection program, and the owner/operator has demonstrated a willingness and desire to fulfill all of the obligations and responsibilities as an MVI station operator, the application for the new station, if all other requirements are met, may be approved.

C. Minimum Requirements for a Motor Vehicle Inspection Station

1. The following minimum requirements must be met prior to approval as an official MVI station:

a. must be in business for ninety (90) days at the present location. However, if there is no other official MVI station within twenty-five (25) miles of the applicant location, the required operation period shall be thirty (30) days;

b. the prospective MVI station must project an image of a clean and orderly place of business;

c. MVI station location must comply with zoning codes.

D. Space Requirements

1. All motor vehicle inspections must be conducted on the premises licensed and must be conducted on a hard surface (concrete or asphalt). Notwithstanding any law, rule or administrative policy to the contrary, official MVI stations shall not be required to reserve a service bay or stall for the exclusive purpose of conducting motor vehicle inspections.

E. Equipment Required for Safety Inspections

1. The following required equipment will be readily accessible during inspection hours:

- a. windshield scraper for removing old certificates;
- b. numerical stamps (#1 through #12) one inch (1") in size, an X stamp, and a black indelible ink stamp pad;
- c. tire depth gauge;
- d. measuring tape at least six (6) feet in length;

- e. flashlight;
- f. tint meter (two-piece type);
- g. adjustable mirror; and
- h. a brake test area to accommodate a twenty mile per hour (20 mph) road test which has been approved by a Safety Enforcement Officer or a brake testing machine which has been approved and properly installed;

i. a telephone number listed in the telephone book under the name of the station as it appears on the station license, with a telephone located at the place of business;

j. evaporative system test equipment which includes fuel inlet pressure and gas cap pressure test equipments per the United States Environmental Protection Agency (US EPA) specifications. Stations must have approved equipment readily accessible and in good working order. This equipment must be in or near the inspection area. The provisions of LAC 55, Part III, Chapter 8, §803(E)(1)(k) shall only apply to inspections stations located in the Non-attainment Area;

k. mechanic s creeper. The provisions of LAC 55:III.803.E.1.k shall only apply to commercial motor vehicle inspection stations;

l. soapstone marker. The provisions of LAC 55:III.803.E.1.k shall only apply to commercial motor vehicle inspection stations;

m. floor jack or lift. The provisions of LAC 55:III.803.E.1.k shall only apply to school bus inspection stations;

n. additional equipment may be required by the Department as it may be deemed necessary, for the proper operation of an inspection station. The Department shall give prior written notice of any additional equipment requirements. After such written notice is given, such additional equipment requirement shall be enforced as if included in these rules.

F. Responsibility of Station Owner or Operator Waiting on Response. Upon application for designation as an official MVI station, the owner/operator has pledged himself to:

1. act as directed by the Louisiana Department of Public Safety and Corrections when inspecting vehicles in accordance with the Official MVI Manual;

2. maintain a current, updated Official MVI Manual on the premises at all times. The manual will be furnished by the Safety Enforcement Section. The manual will be maintained in good condition and be readily available to the mechanic inspector. Any changes in the Official Motor Vehicle Inspection Manual received by the station operator must be placed immediately in the station s Official Motor Vehicle Inspection Manual. It is the owner/operator s responsibility to ensure all of his employees involved in the inspection program are aware of any changes;

3. use only employees authorized by the Louisiana Department of Public Safety and Corrections to perform the actual inspection of motor vehicles;

4. conduct honest, thorough and efficient inspections in accordance with motor vehicle inspection laws and the Department s regulations;

5. maintain in good working order all required tools and equipment described in the minimum requirements, and to cease operations immediately when this condition is not met;

6. maintain a clean and orderly place of business and shop. The owner/operator is responsible for his employees in this respect;

7. refrain from the use of alcohol or drugs while on duty;

8. keep an adequate supply of both inspection and rejection certificates and all necessary forms on hand at all times;

9. perform inspections and affix certificates of inspection only at the business location designated on the station license, affix valid certificates of inspection only to those vehicles which have been properly inspected and have passed the safety requirements, and submit the required inspection report to the local Safety Enforcement Office;

10. have at least one (1) approved mechanic inspector on duty to make inspections during the hours of business each normal working day. The Safety Enforcement Section requests that stations have at least two (2) mechanics certified for each business location;

11. be open for inspections at all times each day during normal business hours and to perform inspections throughout the year. Inspections shall be conducted a minimum of forty (40) hours per week;

12. ensure that all mechanic inspectors attend all meetings, training programs and various schools required by the Louisiana Department of Public Safety and Corrections;

13. be responsible for the actions of his mechanic inspectors in all matters relating to motor vehicle inspections. All civil penalties will be addressed to the station and the payment of penalties will be the responsibility of the owner/operator. The station owner/operator is responsible for all violations concerning the operation of his/her station including the actions of his/her mechanic inspectors;

14. immediately follow all directives and instructions issued by a Safety Enforcement Officer; and

15. properly inform all employees of the rules and regulations set forth herein. Continued supervision of all mechanics authorized to inspect motor vehicles must be maintained.

G. Requirements for Approval of Mechanic Inspectors. Before any mechanic can perform inspections, a Safety Enforcement Officer shall approve the mechanic's qualifications and authorize him to inspect. The following requirements shall be met by each applicant prior to being approved as a mechanic inspector:

1. shall be at least eighteen (18) years of age;

2. shall not have a felony conviction for related offenses within five (5) years of application;

3. shall be able to read and write the English language. They shall be able to complete MVI certificates and reports accurately and legibly;

4. shall possess a valid Louisiana operator's license. The operator's license shall not be subject to any order of suspension, revocation or cancellation or any other order or action which prevents the issuance of a duplicate or renewed operator's license. An approved mechanic inspector residing in a bordering state or those on active military duty shall furnish a valid operator's license from their resident state along with a copy of their driving record. The suspension, revocation, or cancellation of a mechanic inspector's operator's license shall be grounds to suspend his authority

to inspect vehicles. A mechanic inspector shall notify the Safety Enforcement Section immediately of such suspension, revocation, or cancellation of his operator's license;

5. shall successfully complete a training program conducted by the Safety Enforcement Section before being licensed to inspect vehicles. This training shall include all aspects of the Motor Vehicle Inspection program. Mechanic inspectors employed by stations approved to inspect school buses and commercial vehicles shall also be properly trained in those areas prior to being licensed. Mechanic inspectors who wish to be employed by a station within the five parish Nonattainment Area must attend special training and cannot transfer from a station outside this area without first successfully passing said training;

6. a mechanic may be approved to inspect at more than one location. A separate application and fee for each location must be submitted;

7. upon completion of the training program, the mechanic will be certified as a mechanic inspector. The Department will issue a license designating approval to that mechanic, authorizing him to conduct inspections of vehicles at a particular location. The license must be produced upon request by any law enforcement officer. This license is the responsibility of the mechanic inspector. If, for any reason, the license cannot be produced, the mechanic inspector may be required to attend a motor vehicle inspection training school to be re-licensed.

H. Duties and Responsibilities of Authorized Mechanic Inspectors

1. The authorized mechanic inspector shall:
a. always properly and thoroughly conduct an official inspection of vehicles presented for that purpose;

b. only affix inspection certificates to an approved vehicle. By doing this, he is placing a certificate of safety on the vehicle, indicating it is safe for operation on the highway;

c. be sure that no life may be jeopardized by his error, carelessness or indifference;

d. owe a duty to his employer, who has pledged to assist in safeguarding the lives of motorists, to ensure against the operation of unsafe vehicles;

e. inform the owner/operator of the actual condition of his vehicle after completion of an inspection;

f. verify that all equipment is of an approved type and is properly adjusted as prescribed. Evaporative System Test equipment must be properly calibrated as recommended by the manufacturer.

g. perform each inspection with the understanding that he assumes full responsibility for the quality of the inspection when he signs the inspection certificate and places his name on the station's weekly/monthly log report;

h. always remember that he has been authorized to inspect vehicles because he has demonstrated the knowledge to act as an agent of the State of Louisiana when inspecting vehicles;

i. abide by the inspection laws, rules, regulations and/or procedures. Failure to do so by an authorized mechanic inspector may result in a civil penalty being imposed and could result in the permanent revocation of his inspection privileges and may subject him to criminal prosecution;

j. when changing employment from one inspection station to another, the mechanic inspector shall return the old mechanic inspector license and be re-certified at the new place of employment by a Safety Enforcement Officer before performing any inspections at the new location. Failure to obtain certification at the new location may result in revocation of the inspector's license; and

k. determine whether the vehicle being presented for inspection should be inspected under the normal inspection procedures, school bus regulations or commercial criteria. The inspector shall not examine a vehicle he is not certified to inspect.

2. The Department reserves the right to withdraw for cause its authorization of any mechanic inspector or to re-examine a mechanic inspector at any time. If a mechanic inspector has been unlicensed for one year or more he must be re-trained before inspecting any vehicle.

I. Approval as an Inspection Station

1. No inspection station shall be appointed as an official Motor Vehicle Inspection station until all of the requirements have been met.

2. If the application is approved, the applicant will be notified. Once the applicant and a permit fee, a MVI station license will be issued to the applicant. The station will be required to pay an annual renewal fee. An applicant for a public Motor Vehicle Inspection station shall also provide a \$5,000.00 bond.

3. When all conditions have been met, the station license will be delivered to the station by a Safety Enforcement Officer appointed to supervise the station. The station license will be presented to any law enforcement officer upon demand.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§807. Operation as an Official Motor Vehicle Inspection Station

A. Change of Name, Location and/or Ownership

1. Persons operating under a Motor Vehicle Inspection station license contemplating a change of name, location and/or ownership must notify the local Safety Enforcement Office before a change is made. All changes must be approved by the Department prior to being made by the station.

2. Before a change can be made, the former Motor Vehicle Inspection station license and all mechanic license(s) must be returned to the local Safety Enforcement Office. New station and mechanic applications, along with the appropriate fees and a new bond, must be submitted to reflect the change. The Safety Enforcement Section will issue a new Motor Vehicle Inspection station license and mechanic license(s). On the effective date of the change, all inspections will cease under the former Motor Vehicle Inspection station license.

3. For a change of name, location and/or ownership, a public inspection station must submit a new bond or a change rider for the existing bond.

B. Going Out of Business or Discontinuance of Inspections

1. Prior to going out of business or discontinuing inspections, a Motor Vehicle Inspection station owner/operator must immediately notify the local Safety Enforcement Office. Either occurrence shall result in the cancellation of the Motor Vehicle Inspection station license. All unused inspection and rejection certificates, along with the Motor Vehicle Inspection station license and all mechanic licenses, must be returned to the local Safety Enforcement Office.

C. Official Motor Vehicle Inspection Sign (Public Stations Only)

1. All public Motor Vehicle Inspection stations will be required to display an official Motor Vehicle Inspection sign which must be purchased from the Safety Enforcement Section. The days and hours of operation must also be displayed. The sign must be displayed in such a manner as to be easily seen by the motoring public.

2. If the inspection station is restricted to a certain class of vehicle, another sign designating which vehicles are to be inspected must be placed immediately adjacent to the official Motor Vehicle Inspection sign. Stations authorized to inspect commercial vehicles and/or school buses must display a sign stating this. The lettering on this sign, as well as the days and hours of inspection, must be a minimum of three inches (3") in height.

D. Periods of Inspection

1. All vehicles inspected under the provisions of L.R.S. 32:1301 through L.R.S. 32:1310 (Motor Vehicle Inspection Law) are required to be inspected at least once annually.

2. The inspection period shall begin January 1st of each year.

3. The re-inspection month shall be determined by the month indicated on each particular vehicle's previous inspection certificate.

4. A vehicle presented for inspection in a month other than the expiration month noted on the previous inspection certificate shall be issued a certificate with the month the new inspection was performed.

5. Vehicles which have had windshields replaced and have a valid inspection certificate need not be re-inspected, but must carry the original certificate in the vehicle and produce it upon demand. The certificate must not be voided or mutilated and must be legible on both sides. This in no way prohibits the owner/operator from having the vehicle re-inspected after installation of the new windshield.

6. Vehicles which have had inspection certificates lost, stolen or damaged must be re-inspected. The fee may be charged for this inspection.

E. L.R.S. 32:1306(G) Place of Inspection

1. Inspection stations need not reserve a bay or stall exclusively for inspections. However, a station shall give priority to customers seeking motor vehicle inspections.

2. Inspection and rejection certificates shall be issued to a vehicle only by an authorized, licensed mechanic inspector within an area approved by the Safety Enforcement Supervisor and at the authorized inspection station.

F. Ordering Inspection/Rejection Certificates

1. All orders for inspection or rejection certificates should be directed to the local Safety Enforcement Office. Payment will be by money order or check made payable to the Department of Public Safety and Corrections.

2. Demands for inspection or rejection certificates should be anticipated before the station's supply is depleted. Every Motor Vehicle Inspection station will be required to have an adequate supply of certificates on hand at all times. Mail orders should allow ten (10) working days for delivery. Also, a note should be on the outside of the envelope indicating that a sticker order is enclosed.

3. Except as otherwise provided in LAC 55, Part III, Chapter 8, inspection and rejection certificates are not transferable from one Motor Vehicle Inspection station to another. However, report forms, requisition forms and stamps may be borrowed from another station.

4. Only authorized commercial Motor Vehicle Inspection stations will be permitted to purchase commercial inspection certificates.

5. Official Motor Vehicle Inspection signs, inspection and rejection certificates, requisitions forms, weekly/monthly log reports and all other documents may be obtained from the local Safety Enforcement Office.

G. Lost or Stolen Inspection/Rejection Certificates

1. All inspection and rejection certificates are the property of the Louisiana Department of Public Safety and Corrections and must be safeguarded against loss. They must be kept in a secure place under lock and key, available only to the mechanic inspector. (Inspection/rejection certificates can only be placed on an inspected vehicle.)

2. Each inspection station will be accountable for each inspection and rejection certificate it receives from the Department. Lost or stolen certificates must be accounted for on the weekly/monthly log report by numerical listing. In lieu of the inspection information, the word "lost" or stolen must be noted on the weekly/monthly report by that certificate number.

3. Should an inspection or rejection certificate be lost or stolen, the local Safety Enforcement Office must be notified immediately. If a theft is suspected, the local law enforcement agency shall be asked to investigate the theft and forward a copy of the police report to the local Safety Enforcement Office.

4. The loss of any certificates may be grounds for the imposition of a civil penalty or revocation of the station license. Theft of certificates or possession of stolen certificates may result in prosecution of the person(s) responsible.

H. Warning Notices. A written warning may be issued by a Safety Enforcement Officer for any infraction of the rules and regulations. This will become a permanent part of the station's file and will be a basis for determining the issuance of a civil penalty or revocation. A copy shall be given to the mechanic inspector and/or the station owner at the time of issuance.

I. Motor Vehicle Inspection Weekly/Monthly Log Report

1. All entries must be legible and made in black ink only. The audit number of the inspection or rejection certificates issued must be listed in numerical order and must be shown on the report. All other required information must be provided for the vehicle inspected. Vehicle information

will be obtained from the registration. The operator's license number must be taken from the driver's license and not from the registration.

2. Torn, voided or damaged inspection or rejection certificates must be recorded on the log report and attached to the report when it is submitted to the Safety Enforcement Office. Lost or stolen certificates must also be listed numerically on the report (see Lost or Stolen Inspection/Rejection Certificates)

3. Failure to submit all required information on the weekly/monthly report may result in the issuance of a civil penalty or revocation of the Motor Vehicle Inspection station license for that station. Falsifying information on any official document, including the inspection report, is a criminal offense. Felony charges may be brought against anyone providing fraudulent information on an inspection report or forging anyone's signature.

4. The public Motor Vehicle Inspection station's week will begin on Saturday and end at the close of business on the following Friday. These reports must be postmarked no later than Saturday, 12:00 noon.

5. Dealer, fleet, and government Motor Vehicle Inspection stations will be required to submit a report to the local Safety Enforcement Office once each month and must be received by the fifth (5th) of the following month.

6. A second copy of these reports shall be kept in the log book at the Motor Vehicle Inspection station for fourteen (14) months. These copies must be available for inspection by any law enforcement Officer.

7. If a station does not inspect any vehicles during a given week (public) or month (fleet, government or dealer), a log report shall be submitted as previously described with the word "none" written across the report.

8. Authorized commercial Motor Vehicle Inspection stations are also required to follow the above regulations.

9. The Louisiana Vehicle Inspection/Maintenance Parameter Form must be properly filled out by stations in the five parish Nonattainment Area for every vehicle which requires an emissions test. Parameter Forms should be mailed directly to the Department of Environmental Quality, 5222 Summa Court, Baton Rouge, LA 70809. In the Nonattainment Area there may be separate and additional reports required as mandated by the Department of Environmental Quality. Stations within this area are to properly complete all required reports and they must be postmarked no later than Saturday, 12:00 noon each week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§809. General Inspection Requirements

A. Fees for Inspection

1. The fee for safety and commercial inspections will be the current fee set by law for each inspection performed. Headlamp adjustments are included in this charge. No sales tax will be collected on inspections.

2. A fee may be charged by the inspection station for every inspection done whether approved or rejected.

3. A rejected vehicle is entitled to one (1) free re-inspection if returned to the same inspection station within the allowed period of time.

B. Repairs or Adjustments

1. Headlamp adjustments are included in the inspection of a vehicle as stated in L.R.S. 32:1306(C)(2). No other repairs or adjustments should be made without authorization by the owner or operator of the vehicle. Any unauthorized repairs or adjustments may result in a civil penalty being imposed or the revocation of the station's license and/or mechanic inspector's license.

2. The owner of a vehicle is under no obligation to have defects corrected by the inspection station. The owner may have the vehicle repaired where he chooses or may repair the vehicle himself. The inspection station is only required to perform a complete and proper inspection.

C. Issuance of Inspection Certificates

1. An inspection certificate will be issued for every vehicle inspected which passes the safety requirements. The month that a certificate is issued shall be indicated by an insert placed in the appropriate area of the certificate. The year the certificate expires will also be indicated by an insert placed in the appropriate block on the certificate. All of the information on the back of the sticker must be filled in with black indelible ink. The certificate will be firmly attached to the lower left-hand corner of the windshield as viewed from the driver's seated position. Under no circumstances will an inspection certificate be applied to the windshield without the month and year of expiration being noted in the appropriate blocks provided.

2. Mechanic inspectors shall fill in all requested information on the rear of the inspection sticker and sign in the appropriate space using a black ink pen.

3. When inspecting motorcycles, motor driven cycles, trailers and semi-trailers, an "X" will be stamped on the face of the inspection certificate. Under no circumstances will the stamp cover the month nor the year of expiration insert or the audit number of the inspection certificate. Inspection certificates of this type will be attached to the registration certificate for the vehicle.

4. All trailers will be considered a separate inspection and a certificate will be issued for each. A separate fee will be charged for each vehicle inspected. The inspection certificate for a trailer will never be placed on the windshield of the towing vehicle.

5. Each inspection shall be a complete inspection. All of the items noted within these rules and regulations shall be inspected.

6. Pre-inspections cause hardship for the customer and will not be allowed.

7. Use of the stamp kit in place of certificate inserts is prohibited unless authorized by the Safety Enforcement Office. Marking pens are not to be used in place of an insert.

D. Issuance of Rejection Certificates

1. When a vehicle is presented for inspection and fails to pass the safety standards, the current fee will be charged for the service of inspecting the vehicle. The owner or operator will be advised of the defects causing the vehicle to fail inspection.

2. A rejection certificate is valid for a time period of thirty (30) days from the date of issuance. The owner or operator of the rejected vehicle is allowed this thirty (30) day period to make the necessary repairs or replacements which will place the vehicle in compliance. If the vehicle presents no hazard to the public, it may be used for normal

activities. If the vehicle presents a definite hazard to the public, a restricted twenty (20) mile limitation on usage may be imposed (see Issuance of Restricted Rejection Certificate).

3. When a rejected vehicle is returned to the same inspection station within thirty (30) days of issuance, the inspector is required to check only the items previously found defective unless other obvious defects are noted. There is no charge for this re-inspection provided that the defects are corrected and the vehicle is returned to the same inspection station within the thirty (30) day time period. If the vehicle is taken to another inspection station, a complete inspection is to be performed and another fee is required.

4. Only one (1) rejection certificate may be issued to a vehicle. Under no circumstances shall any station issue a second rejection certificate to a vehicle.

5. An inspection station may not issue a rejection certificate solely because the station is out of inspection certificates. If the station's supply of inspection certificates becomes depleted, the station must completely cease inspecting until a new supply of certificates is obtained.

6. All rejection certificates must be entered in the weekly/monthly log report in numerical order and must be accounted for. The log report must indicate the items found defective by making a notation in the appropriate blocks provided. The reverse side of the rejection certificate must also indicate the defective items found.

7. Should the owner or operator of a rejected vehicle refuse to accept the rejection certificate, it will be noted as such on the log report. The completed rejection certificate will be attached to the log report and sent to the local Safety Enforcement Office at the end of the inspection week as required.

8. The rejection certificate must be filled out in black ink only. It will be noted on the reverse side of the rejection certificate, the date of inspection, a brief description of the vehicle and the expiration date of the rejection certificate. The face of the rejection certificate will be stamped with the number of the month in which the vehicle was inspected.

9. The rejection certificate will be affixed to the lower left-hand corner of the windshield as viewed from the driver's seated position. The owner or operator will be told by the mechanic inspector of the thirty (30) day expiration of the certificate and what items caused the vehicle to fail inspection. The owner or operator will be advised of the procedure for re-inspection.

10. If the vehicle is returned for re-inspection within the thirty (30) day limit and the defective items have been corrected, and for some reason the station cannot re-inspect the vehicle, the fee collected at the time of rejection must be returned to the owner or operator.

11. If the vehicle fails inspection due to an emission system defect, the reverse side of the rejection certificate will be marked to indicate which system failed.

E. Issuance of Restricted Rejection Certificates

1. If a rejected vehicle presents a definite hazard to the public, the vehicle's usage shall be restricted. A restricted rejection certificate shall be issued limiting the vehicle's usage to twenty (20) miles. The owner or operator still has thirty (30) days to repair the defective item(s). The vehicle should only be used to be repaired, inspected or returned to the owner or operator's residence. The face of the rejection

certificate will be marked with the number of the month it is issued along with an X stamped next to it. The mileage at which the rejection will expire will be placed on the face of the certificate. The date of expiration will also be noted on the certificate.

2. A vehicle would be classified as restricted when one (1) or more of the following items causes a rejection. This does not eliminate the fact that a combination of defects may also render the vehicle unsafe and, therefore, restricted.

- a. no liability insurance;
- b. steering;
- c. tires, wheels and rims;
- d. braking system;
- e. tail lights or stop lights; or
- f. exhaust systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§811. Inspection Procedures

A. The mechanic inspector shall record the expired sticker number on the log report then remove the expired sticker prior to continuing with the inspection.

B. The mechanic inspector will conduct a review of the documents for the vehicle ensuring that all documents are in agreement.

1. Certificate of Registration. Contains information which must be verified with the corresponding information on the vehicle. A photocopy or original registration is acceptable. In lieu of a registration certificate, a vehicle may be inspected with a valid temporary marker.

2. Vehicle Identification Number (VIN). The VIN must agree with Certificate of Registration and the insurance document. It must match the VIN displayed on the vehicle.

3. License Plate. The registration indicates a license plate number and expiration date of the plate. This information must correspond with the information displayed on the vehicle. The license plate cannot be expired.

a. Vehicles which display apportioned license plates for trucks which travel out of Louisiana are issued a Louisiana apportioned cab card in lieu of a registration. This cab card indicates the license plate expires at the end of December. However, a grace period exists which extends the expiration of the license plate until the end of February.

b. A temporary registration authorization indicating an apportioned plate has been applied for is also acceptable in lieu of a registration. When this condition exists, no license plate is present. The temporary registration allows the vehicle to be used until the apportioned plate and cab card are issued.

c. Vehicles which display either a dealer plate or a temporary cardboard plate with green lettering on a white background are exempt from presenting a registration certificate. The driver must provide proof of fleet liability insurance coverage. The insurance must be in the name of the dealership which carries the vehicle in its inventory.

d. Drivers of vehicles which display a valid sixty (60) day temporary marker must also present a bona fide bill of sale. The bill of sale must indicate the vehicle was purchased within sixty (60) days from the date the vehicle is presented for inspection.

e. All vehicles which display a public license plate are exempt from presenting a registration certificate and proof of insurance. City, parish or state-owned vehicles, if licensed with Louisiana license plates, are required to be inspected and must meet the same requirements of any other vehicle of that same size and weight.

4. Operator License: Must be valid and in the immediate possession of the vehicle operator. It must be presented to the mechanic inspector, and the license number must be taken from the driver's license and recorded in the appropriate block on the weekly/monthly log report.

a. A valid out-of-state driver's license is acceptable. The state in which it was issued must be noted on the log report.

b. A temporary driving permit issued in connection with a traffic violation when the operator's license is held may be accepted until the permit expires on the court date noted.

c. When inspecting motorcycles, the operator's license must have a motorcycle endorsement.

d. Operators of school buses and commercial motor vehicles must possess the appropriate type commercial driver's license.

5. Proof of Current Liability Insurance: Must be shown to the mechanic inspector. The vehicle operator must also sign the log report indicating the vehicle is covered by liability insurance. (Note: Government vehicles are exempt from furnishing proof of insurance.) One of the following must be presented as proof of insurance.

a. A current certificate of insurance, motor vehicle liability insurance policy (or duplicate of the original) or a binder for the same is acceptable. A vehicle's policy identification card or photocopy of the same may also be accepted. These documents shall designate the name of the insurance company affording coverage, the policy number, the effective dates of coverage (both the beginning and ending dates are required) and a description of the vehicle covered including the VIN. A binder must be an official accord binder form and can be handwritten.

b. A copy of a motor vehicle liability bond. This document may or may not describe the vehicle covered.

c. A certificate from the state treasurer indicating a deposit was made to the state. It will not have a description of the vehicle, but the vehicle must be registered under the same name as noted on the certificate.

d. A certificate of self-insurance issued by the Louisiana Department of Public Safety and Corrections. It is not required to describe the vehicle covered.

6. License Plate Mounting and Condition: In addition to being valid, the license plate will be inspected for the following:

a. Must be secured to their mounting brackets.

b. Must be clean, clearly visible and readable for a distance of fifty feet (50') to the rear of the vehicle. Plates shall not be obscured or damaged so that the numbers cannot be identified.

c. Must be mounted in the rear.

f. Truck-trailer, emergency fire fighting equipment, dump-body trucks, trucks over six thousand pounds (6,000 lbs) and forestry product licensed vehicles may display the plate on either the front or rear of the vehicle.

C. All vehicles presented for inspection will be inspected for all of the following items: vehicle registration, vehicle license plate, driver's license and proof of liability insurance.

D. Every motor vehicle, trailer, semi-trailer and pole trailer registered in this state shall bear a valid safety inspection certificate issued in the State of Louisiana.

E. The director may authorize the acceptance of out-of-state inspection certificates when the state's inspection laws are similar to those stated herein. The director may also extend the time within which a certificate shall be obtained by the resident owner of a vehicle which was temporarily out of state during the time an inspection was required. However, once the vehicle is returned to Louisiana, a valid Louisiana inspection certificate must be obtained immediately.

F. State mechanic inspectors must check registrations prior to inspecting vehicles. Any vehicle registered in the municipalities of New Orleans, Kenner or Westwego must be inspected in those municipalities. In addition, inspectors must refer to the four digit domicile code on the registration. Effective January 2000, any vehicle registered with a domicile code beginning with 03 (Ascension Parish), 17 (East Baton Rouge Parish), 24 (Iberville Parish), 32 (Livingston Parish), or 61 (West Baton Rouge Parish), the Nonattainment Area must be inspected within that five parish area. There is no longer an exception to this rule.

G. When a vehicle is presented for inspection, the mechanic inspector will collect the inspection fee and request that the driver present his operator's license, vehicle registration certificate and proof of liability insurance for the vehicle being inspected.

H. The vehicle registration must indicate an address other than in Kenner, Westwego or New Orleans. Residents of these areas are required to comply with the municipal ordinances of periodic inspections of the area in which they reside. Exception: In hardship cases approved by a Safety Enforcement Officer, vehicles from these areas with an expired inspection certificate may be inspected at state inspection stations which will be valid until the return of the vehicle to these municipal areas.

I. The mechanic inspector shall verify whether or not he is qualified to inspect and the station is approved for the vehicle type being inspected, such as a passenger vehicle, commercial vehicle, school bus, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§813. Required Equipment

A. Inspected items must be in proper condition and adjustment such that the item does not pose an unsafe condition as to endanger any person or property.

B. Speedometer/Odometer

1. The speedometer and odometer will be checked while road testing the vehicle.

2. Proper operation of the speedometer is required.

3. The speedometer shall indicate miles per hour (mph) traveling.

4. The odometer shall accurately calculate the mileage driven. The actual mileage must be recorded on the log report.

C. Horn

1. The horn shall be securely fastened.

2. The horn shall be an original type horn or an equivalent.

3. The horn shall be functional and audible for a distance of two hundred feet (200').

4. The horn button shall be readily accessible to the operator.

5. An auxiliary horn must be wired to a separate switch.

D. Brakes

1. Every vehicle required to be equipped with brakes must be tested and shall be capable of meeting the requirement as herein stated concerning performance ability.

2. The test for stopping distance shall be made on a substantially level, dry, smooth, hard surface that is free from loose material. It will be conducted at a rate of twenty miles per hour (20 mph) and must meet the minimum breaking distance as listed below. The vehicle shall not pull to the right or the left causing the vehicle to excessively alter its direction of travel.

3. A platform brake tester may be used instead of performing the road test. Before attempting to inspect a vehicle's brakes with a platform brake tester, the mechanic inspector shall be trained on and have experience in the use of the machine. The machine shall have adequate capacity. The mechanic inspector shall follow all tester manufacturer's directions.

4. Classifications for brake application

a. Passenger vehicles with a seating capacity of ten (10) people or less including driver and not having a manufacturer's gross vehicle weight rating shall have a braking distance of 25 feet.

b. Single unit vehicles with a manufacturer's gross vehicle weight rating of less than 10,000 pounds shall have a braking distance of 30 feet..

c. Motorcycles and motor-driven cycles shall have a braking distance of 30 feet.

d. Single unit vehicles with a manufacturer's gross weight rating of 10,000 pounds or more shall have a braking distance of 40 feet.

e. Combination of a two-axle towing vehicle and a trailer with a gross trailer weight of 3,000 pounds or less shall have a braking distance of 40 feet.

f. Buses, regardless of the number of axles, not having a manufacturer's gross weight rating shall have a braking distance of 40 feet.

g. All combinations of vehicles in drive away, tow-away operations shall have a braking distance of 40 feet.

h. All other vehicles and combination of vehicles shall have a braking distance of 50 feet.

E. Brake Requirement

1. Any vehicle registered as a farm trailer, farm semi-trailer, rubber-tired farm wagon, drawn rubber-tired farm equipment or implements of husbandry manufactured or assembled prior to January 1, 1973, and operated or moved only incidentally on the highways of this state, shall be exempt from brake requirements provided that:

a. the gross weight does not exceed ten thousand pounds (10,000 lbs.);

b. the speed does not exceed thirty miles per hour (30 mph);

c. fertilizer distributors or spreaders are exempt from brake requirements. Commercially owned ammonia nurse tank trailers used for the transportation and storage of fertilizer are exempt from the braking requirements.

2. Every registered vehicle when presented for inspection shall be equipped with brakes in accordance with the requirements herein stated.

a. Every motor vehicle, other than motorcycles or motor driven cycles, shall be equipped with brakes adequate to control movement of and to stop and hold movement of such vehicle. Two (2) separate means of applying brakes are required, each of which shall effectively apply brakes to at least two (2) wheels and shall be capable of complying with the brake performance shown in the classification table.

b. Every motorcycle and every motor driven cycle shall be equipped with at least one (1) brake which may be operated by hand or foot capable of complying with the performance requirements shown in state law.

c. Every motorcycle and every motor driven cycle manufactured with two (2) wheels shall be required to be equipped with brakes on both wheels.

d. Every 1963 or later model year motor vehicle shall be equipped with brakes on all wheels.

e. Every trailer or semi-trailer exceeding three thousand pounds (3,000 lbs) gross weight shall be equipped with brakes acting on all wheels.

3. The following exceptions exist.

a. Trailers and semi-trailers having a gross weight between three thousand pounds and five thousand pounds (3,000-5,000 lbs) need only be equipped with brakes on a single axle.

b. Trailers and semi-trailers manufactured or assembled prior to January 1, 1963, need only be equipped with brakes on a single axle provided the combination of vehicles, consisting of the towing vehicle and its total load, is capable of complying with the performance requirements.

c. Farm trailers and semi-trailers manufactured or assembled prior to January 1, 1973, need not be equipped with brakes. Every farm trailer and farm semi-trailer manufactured or assembled on or after January 1, 1973, and having a gross weight exceeding three thousand pounds (3,000 lbs) shall be equipped with brakes in accordance with the requirements set forth above.

d. Log trailers shall be exempt from brake requirements until January 1, 1973, after which time they shall be equipped with brakes in accordance with the requirements set forth above.

e. Trucks and truck-tractors, 1963 and older, which have had an additional axle and wheels (tag axle) added for the purpose of allowing a greater payload must be capable of complying with brake performance requirements for the additional weight or be equipped with brakes on the additional tag axle in order to meet the brake performance requirements.

f. Vehicles carrying forest products in their natural state shall not be required to have a brake on the drag axle if the wheels of the drag axle touch the ground only when the vehicle is loaded. However, this provision does not apply to trailers or trucks with more than two (2) axles.

F. Parking Brakes

1. The parking brake will be inspected for the proper operation of the alternative braking system. The parking brake shall operate as originally equipped. The brake must be inspected for proper setting and release functions.

G. Lighting System

1. All required bulbs or sealed beams must light when activated. All lamps must be of an approved type.

2. Auxiliary lighting equipment must not be placed on, in or in front of any lamp nor will auxiliary lighting interfere with the necessary visibility width of any lamp.

3. All lamp assemblies must be properly fastened.

4. No rear lamp is allowed with a broken, missing or defective lens which allows white light to be visible to the rear of the vehicle.

5. The use of tape on the surface of the rear lens or the use of any shield that covers any portion of the light will not be allowed unless originally factory equipped.

6. Any after market auxiliary lamp installed on a vehicle that is designed to emit white light or any auxiliary lamp mounted facing forward must be covered when used on public streets and highways. If auxiliary lamps are not properly covered, the inspector shall reject the vehicle.

H. Headlamps

1. All motor vehicles, except motorcycles, motor scooters and motor bikes shall be equipped with at least two (2) operable headlamps, emitting white light only. These headlamps may be the multiple beam type or the single beam type. The type headlamp with which the vehicle is equipped will determine what requirements must be met.

2. Motor vehicles must have at least two (2) headlamps, but not more than four (4) headlamps, half mounted on each side on the front of the vehicle.

3. The mounted height of headlamps, measured from the center of the lamp to the level ground, will not be more than fifty-four inches (54") nor less than twenty-four inches (24").

4. All vehicles must be equipped with an operable dimmer switch and beam indicator (high or low beam designation).

5. Headlamp concealment devices must remain fully open when the headlamp is illuminated. The concealment device must be opened automatically or manually without the use of any tools.

6. Aiming of Headlamps is as follows:

a. The inspection shall include the adjustment of headlights when needed and if mechanically practical. This service shall be performed at no additional cost to the operator of the motor vehicle.

b. Headlights shall be aimed using only approved equipment and following manufacturer's recommendations.

7. Any after market auxiliary lamp installed on a vehicle's roof or on a roll bar that is designed to emit white light must be covered when used on public streets and highways. If auxiliary lamps are not properly covered, the inspector shall reject the vehicle.

I. Parking Lamps on the front of the vehicle. When actuated, the front parking lamps must display either white or amber light. These lamps must operate as originally equipped.

J. Turn Indicator Lamps, Front and Rear

1. Any vehicle manufactured or assembled after December 31, 1962, must be equipped with lamps which indicate the direction of a turn displaying the signal to both the front and rear of the vehicle.

2. Front turn indicator lamps: Both front turn indicator lamps must be mounted on the same level and display an amber light, except those vehicles manufactured or assembled prior to January 1, 1969. Those vehicles may emit either a white or amber colored light.

3. Rear turn indicator lamps: Both rear turn indicator lamps must be mounted on the same level with one on each side of the vehicle. The lamps may emit either red or amber color light only. The lens covering the lamp may not be cracked, broken or missing causing white light to be emitted to the rear of the vehicle. The lens must be of an original type lens.

4. The signal cancellation must operate as originally equipped and cancel the signal when the turning maneuver is completed, except for truck-tractors, motorcycles or motor driven cycles.

K. Tail Lamps

1. Tail lamps must be covered with an original type lens. It cannot be cracked, broken or missing any of the lens which would emit white light to the rear of the vehicle.

2. Vehicles manufactured or assembled after December 31, 1962, must be equipped with two (2) tail lamps.

3. The tail lamp must emit red light only.

4. The maximum height of tail lights is seventy-two inches (72") and the minimum height allowed is fifteen inches (15").

L. Stop Lamps

1. Vehicles manufactured or assembled after December 31, 1962, are required to have two (2) operational stop lamps with the exception of motorcycles, motor driven cycles or truck tractors, which must have at least one.

2. The stop lamps must emit red light only visible at least three hundred feet (300') to the rear of the vehicle.

3. The stop lamps must operate as originally equipped.

4. The lens covering the stop lamp must be of an original type not broken, cracked or missing any portion which allows white light to be emitted to the rear of the vehicle.

M. High Mount Brake Lamp

1. All passenger vehicles manufactured September 1, 1985, and thereafter must be equipped with a third stop lamp. This lamp is to be mounted in the line of sight near the rear window with at least four and one-half inches (4 1/2") of exposed red area on the lens. Light duty trucks with the model year 1995 and later are required to have high mount lamps.

2. The high mount brake lamp must be present and operate as originally equipped.

3. The vehicle shall be rejected if the high mount brake lamp is obscured by any add on item such as ladder racks, luggage racks, etc. Light duty trucks that are equipped with high mount brake lamps and have had a camper top installed must have a similar high mount brake lamp installed on the camper top in a corresponding position in the rear. If the vehicle comes equipped with a high mount

brake lamp, it cannot be obscured by any after market item unless it is replaced with a comparable lamp as originally equipped and visible from the rear of the vehicle.

N. Back-Up Lamps

1. Vehicles manufactured or assembled after January 1, 1969, must be equipped with no more than two (2) back-up lamps.

2. The back-up lamp must emit a white light only.

3. The back-up lamps must be lighted only when the vehicle is in reverse gear and must not light when the vehicle is in any other gear.

O. License Plate Lamp

1. The license plate lamp must illuminate the license plate making it visible for fifty feet (50') to the rear.

2. The lamp is to be lighted with white light only when headlamps or auxiliary driving lamps are lighted. Except for antique vehicles, the use of neon lights or the use of any other lights which obscure the license plate is prohibited.

P. Outside/Inside Rearview Mirrors

1. From the driver's seated position, visually inspect the left outside rearview mirror and the interior mirror for clear and reasonably unobstructed view two hundred feet (200') to the rear.

2. The mirrors should not be cracked, pitted or clouded to the extent that the driver's vision would be obscured. Inspect mirrors for correct location and stable mounting.

3. Mirrors must maintain set adjustment so that the rear vision is not impaired.

4. All vehicles manufactured after December 31, 1972, must be equipped at the factory with a left-hand, outside rearview mirror. This includes motorcycles and motor driven cycles. If two (2) outside mirrors are utilized, no inside mirror is required.

Q. Windshield Wipers

1. U.S. vehicles produced after January 1, 1968, must be equipped with a wiper system capable of operating at two (2) or more speeds. Two (2) wipers are required if the vehicle was originally equipped with such. All motor vehicles equipped with windshields, except motorcycles and motor driven cycles, are required to have windshield wipers.

2. Windshield wipers must operate as originally equipped to operate. If vacuum operated, the engine must be idling and the control must be turned on to the maximum setting.

3. Windshield wipers shall not smear or severely streak the windshield.

4. Proper contact of the blades with the windshield is required. Inspect by raising the arm away from the windshield and then release it. The arm should return to the original position or should urge the wiper blade to contact the windshield firmly.

5. The condition of the blades and metal parts must be checked.

6. Metal parts and blades shall not be missing or damaged. Blades shall not show signs of physical breakdown of rubber wiping element. Rubber blades shall not be damaged, torn or hardened to the point that they do not clear the windshield.

7. The windshield wiper control shall be within reach of the driver.

R. Windshield Washers

1. Legislative Act 129, 1992, L.R.S. 32:356(B) states all vehicles six (6) years old or older are not required to have working windshield washers. All other vehicles are required to have operating windshield washers.

S. Windshields

1. Every passenger vehicle, other than a motorcycle, shall be equipped with an adequate windshield.

2. For inspection purposes, the windshield is composed of three (3) areas as follows.

a. Acute Area. The acute area is directly in the driver's line of vision in the center of the driver's critical area. It is 8" x 11", the size of a standard piece of paper. In this area no cracks are allowed. No more than two (2) stars, nicks, chips, bulls eyes or half moons in excess of one-half inch (1/2") will be allowed.

b. Critical Area. The critical area is the area other than the acute area which is cleaned by the normal sweep of the windshield wiper blades on the driver's side only. In this area, any star larger than two inches (2") in diameter; two (2) or more stars larger than one and one-half inches (1 1/2") in diameter and two (2) or more cracks which extend more than eight inches (8") in length will not be allowed.

c. Non-Critical Area. This area consists of all other windshield area other than the acute or critical area.

3. A windshield can be rejected at any time the condition creates a safety hazard. If a windshield is cracked in such a way as to jeopardize the integrity of the windshield, the vehicle is to be rejected.

T. Windows and Glass Sunscreening and Glass Coating

1. Windshields are allowed to have sunscreen extend down from the topmost portion of the windshield no more than five inches (5"). The sunscreen shall be transparent and not red or amber in color.

2. Vehicles being presented for inspection which have been issued a Sunscreen Certificate shall have only the front side windows inspected. These must have a reading of forty percent (40%) or higher light transmittal to pass inspection.

3. Vehicles being presented for inspection that do not have a sunscreen certificate shall be inspected as follows.

a. Windshield. As stated above, sunscreen may not extend more than five inches (5") from the top of the windshield and may not be red or amber in color.

b. Front Side Windows. Must have at least forty percent (40%) light transmission.

c. Side Windows Behind Driver Must have at least twenty-five percent (25%) light transmission.

d. Rearmost Glass. Must have at least twelve percent (12%) light transmission.

e. Label. There must be a label affixed to the lower right corner of the driver's side window. It must not exceed one and one-half inches (1 1/2") square in size. It must be installed between the glass and the sunscreen material and must contain the name and city of the installer.

4. Light transmission will be checked using only an approved tint meter and following manufacturer's directions.

5. Sunscreen shall not have a luminous reflectance of more than twenty percent (20%).

6. No tint material may be affixed to the front windshield or the front side windows if the material alters the color of the light transmission. No tint other than smoke shall be allowed.

7. Exceptions to the Sunscreen Rule

a. Sunscreen regulations do not apply to windows behind the driver of trucks, buses, trailers, motor homes, multi-purpose passenger vehicles and all windows of vehicles used for law enforcement purposes.

b. Vehicles with sunscreen certificates as stated above.

c. A person with a medical condition which makes that individual sensitive to sun exposure may obtain a waiver form provided by the Department of Public Safety and Corrections from the Safety Enforcement Office. The waiver must be completed by a licensed physician and must be signed by a Safety Enforcement Officer. This waiver exempts the vehicle identified on the form from all restrictions as provided in R.S. 32:361.1.

d. Special exemptions for security reasons will be approved only by the Section Commander.

U. Body and Sheet Metal. Exterior components of the body and sheet metal parts must not be damaged and/or dislocated so that they project from the vehicle and present a safety hazard to occupants, pedestrians or other vehicles.

V. Fenders

1. Fenders, covers or devices including splash aprons and mud flaps shall be required unless the body of the vehicle or attachments afford protection to effectively minimize the spray or splash of water, mud or loose material on the highway from the rear of the vehicle.

2. Tires shall not extend beyond fenders or attachments more than one inch (1") to provide a safe condition.

3. All vehicles with an unladen weight of under one thousand five hundred pounds (1,500 lbs) and trucks or farm vehicles handling or hauling agricultural or forestry products are exempt from fender requirements.

4. Front and rear fenders that have been removed because of being hazardous or unserviceable must be replaced. If replacement of the front or rear fender removes a required lighting device, the lighting device must be re-installed or replaced.

W. Bumpers

1. Bumpers removed from vehicles originally equipped with bumpers will not be permitted. However, rear bumpers are not required on pickup trucks.

2. Rebuilt or modified bumpers must be made of material equivalent to the original bumpers and must be equal in strength.

3. Bumpers must be securely attached and not broken or protruding.

X. Doors. The vehicle's doors will be inspected as follows.

1. All doors must be present and operational.

2. Doors must be secured in the closed position.

3. Doors must function as originally equipped by the factory.

Y. Hood Latch. The hood must be securely held in a closed position by an original type latch.

Z. Floor Pan. No holes or rusted areas are permitted in the occupant compartment or trunk. Inspectors may require that the trunk of a vehicle be opened on vehicles possessing serious body rust throughout.

AA. Wheels and Tires

1. Conduct a visual check of the wheels and tires to detect any condition that would create a hazard or an unsafe condition.

2. All tires must be for highway use. Tires marked Not For Highway Use, Farm Use Only or For Racing Purposes Only are not allowed.

3. Tires without tread wear indicators shall have two-thirty seconds inch (2/32") tread remaining when measured in any two (2) adjacent major grooves at a minimum of three (3) locations spaced approximately equal distance around the major tire groove.

4. Tires with tread wear indicators shall not allow the indicators to contact the road in any two (2) adjacent major grooves at three (3) locations spaced equally around the tire.

5. Cord shall not be exposed through the tread. Tread cuts, snags or sidewall cracks in excess of one inch (1") in any direction deep enough to expose cords, are not allowed.

6. Tires shall not have visible bumps, bulges or knots indicating partial failure or separation of the tire structure.

7. Tires shall not be re-grooved or re-cut below the original groove depth except tires which have undertread rubber for this purpose and are identified as such.

8. Tires on the same axle shall be of the same type construction.

9. Wheels shall not be bent, loose, cracked or damaged as to affect safe operation.

10. Rims or wheel flanges shall not be defective.

11. Wheels should be secure. Only one missing or defective bolt, nut or lug is allowed except on a four-hole pattern wheel. On a four hole pattern wheel no missing or defective lugs are allowed.

BB. Steering Mechanism

1. An original equipment type steering wheel is required.

a. The steering wheel shall be of the same diameter as originally equipped. Any modification that may affect the proper steering of the vehicle is prohibited.

b. Chain-type steering wheels shall not be allowed.

2. Excessive play, tightness, binding or jamming shall not be allowed.

a. With the front wheels in a straight ahead position, check steering for free play. More than two inches (2") of free play for power assisted steering and more than three inches (3") of free play for manual steering will not be permitted.

3. Excessively worn or broken parts in the steering components, any leakage of the power unit or excessive looseness of the power system fan belt shall not be permitted.

4. Modification of the front end and steering mechanism in any manner shall not be permitted.

CC. Suspension and Shock Absorbers

1. The vehicle must have operational shock absorbers and springs.

2. The vehicle must have at least three inches (3") of suspension travel.

3. The vehicle must have at least four inches (4") of ground clearance measured from the frame with the vehicle on a level surface.

DD. Seats and Seat Belts

1. Front seats shall be securely anchored to the floor pan. Missing anchor bolts are not permitted. The seat adjusting mechanism shall not slip out of the set position.

2. Seat belts shall operate and adjust as originally intended. Seat belt buckles shall operate properly.

3. Webbing shall not be split, frayed or torn.

4. Seat belts shall be securely mounted. Anchorages shall be secure.

5. Passenger cars, vans or trucks with a gross weight of six thousand pounds (6,000 lbs) or less, and manufactured after January 1, 1981, require front seat belts only.

EE. Exhaust System. The exhaust system includes the piping leading from the flange of the exhaust manifold to, and including, the mufflers, resonators, tail piping and emission control device. Visually inspect the exhaust system for rusted or corroded surfaces.

1. The vehicle must have a muffler.

2. No loose or leaking joints in the exhaust system are allowed. Also, no holes, leaking seams, loose interior baffles or patches on the muffler are allowed.

3. The tail pipe end can not be pinched.

4. Elements of the system must be fastened securely, including missing connections or missing or broken hangers.

5. A muffler cannot have a cut-out bypass, or similar device which allows fumes to escape.

6. The muffler cannot emit excessive smoke, fumes, or noise.

7. The tail pipe shall extend past the passenger compartment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§815. Miscellaneous Inspection Procedures

A. Trailers

1. Every trailer and semi-trailer with a loaded gross weight capacity of up to six thousand pounds (6,000 lbs) shall be equipped with safety chains. The safety chains shall be securely attached to the towing vehicle when the trailer or semi-trailer is in motion, and shall be of sufficient strength to hold the trailer behind the towing vehicle in case the connection between the two vehicles detaches.

2. Trailers shall be inspected for fenders, lights and brakes where applicable.

B. Antique Cars. Motor vehicles which are forty (40) years old or older and which are used primarily for exhibition in shows, parades, tours and other special uses and not for general transportation, and which are registered and licensed as antique as provided in L.R.S. 32:707(L) shall be exempt from the inspection requirements of this chapter.

C. Motorcycles. In addition to other items already stated, motorcycle handlebars will also be inspected as follows:

1. They must be constructed of tubing comparable to or exceeding the thickness of the original equipment.

2. No cracks, deformation or excessive flexure is allowed.

3. Handlebars shall not be more than fifteen inches (15") above the seat.

4. Handlebars shall be properly aligned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

Subchapter C. Vehicle Emission Inspection And Maintenance Program

§817. General Information

A. Emission Control System Inspections. This section describes the general procedures to be used by certified inspectors when conducting anti-tampering and other emission control system inspections on 1980 and newer model year gasoline-fueled passenger cars and gasoline-fueled light- and heavy-duty trucks (10,000 pounds gvwr or less) registered and/or operated in the state of Louisiana. The purpose of the vehicle anti-tampering inspection is to detect physical damage to, or disablement or removal of, emission control system components, and to repair or replace defective or missing system components. The purpose of the evaporative system pressure tests is to ensure that the entire evaporative emission system is fully pressurized and functional. These emission control system inspections are designed to reduce both tailpipe and evaporative pollutant emissions from in-use vehicles operated in Louisiana.

B. General Inspection Procedures

1. The vehicle anti-tampering inspection is designed to identify any evidence of tampering or obvious need for repair or replacement of a vehicle's emissions control system components. Vehicles that initially fail the anti-tampering inspection are required to be repaired and re-inspected in order to comply with the inspection guidelines. The anti-tampering inspections also serve to discourage illegal tampering with the vehicle's emission control system, thereby resulting in additional reductions of vehicular emissions in Louisiana.

2. No attempt shall be made by the certified inspector to remove any engine components to perform the anti-tampering inspection. In instances where certain components are not visible, it will be assumed that the component is properly connected and operative. However, this assumes that a reasonable attempt was made by the certified inspector to identify and visually examine the component.

3. During the inspection, the certified inspector will either pass or fail the vehicle based on the criteria described herein. The vehicle will be rejected if any of the inspected parameters are found disconnected or tampered with. The certified inspector will then place a rejection certificate on the vehicle and inform the vehicle operator why the vehicle failed inspection and what corrective measures are required for the vehicle to pass inspection.

4. For the purpose of the vehicle anti-tampering and inspection and maintenance program, passenger car means every motor vehicle designed for carrying 10 passengers or less and used for the transportation of people.

5. For the purpose of the vehicle anti-tampering and inspection and maintenance program, light-duty truck and heavy-duty truck means a gasoline-fueled motor vehicle with a gross vehicle weight rating of 10,000 pounds or less. Light- and heavy-duty trucks shall include, but not be limited to, minivans, sport utility vehicles, pick-up trucks, panel delivery trucks, and carry-all trucks. Proof of repair or replacement of emission control components shall be provided by the vehicle owner at the time the vehicle is re-

inspected. This proof shall be in the form of a dated repair receipt or a sales invoice and must be presented to the inspection station when the vehicle is re-inspected.

C. Manufacturer's Emission Control Label

1. The manufacturer's emission control label located under the hood consists of a schematic diagram of the original emission control components installed on the vehicle. The certified inspector should refer to this label diagram when attempting to locate applicable emission control components. On vehicles equipped with a catalytic unit, a decal is required by federal regulation to have the word catalyst in legible letters.

2. Vehicles with catalytic converters should have unleaded fuel only decals near the filler pipe and fuel gauge. Missing labels will not be grounds for rejection.

D. Manufacturer's Information Plate. The gross vehicle weight rating (gvwr) of a vehicle is stamped on the federal safety sticker located inside the left door of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§819. Anti-tampering and Inspection and Maintenance Parameters

A. The statewide vehicle anti-tampering program will include a visual inspection of the following emission control system components on all 1980 and newer model year gasoline-fueled passenger cars and gasoline-fueled light- and heavy-duty trucks (10,000 pounds gvwr or less) registered and/or operated in Louisiana:

1. catalytic converter system (catalyst);
2. air injection system (AIS including belts, hoses, and valves);
3. positive crankcase ventilation system (PCV system including hoses and valves);
4. evaporative emission control system (charcoal canister, hoses, wires, and control valves); and
5. exhaust gas recirculation system (EGR valve and hoses).

B. Effective January 1, 2000, and in addition to the anti-tampering parameter checks listed in Subsection A of this Section, a vehicle inspection and maintenance program consisting of evaporative system pressure checks is required on all subject vehicles registered within the five-parish nonattainment area. The nonattainment area is comprised of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge parishes. The evaporative system pressure testing shall consist of the following two tests:

1. a gas cap pressure test; and
2. a fuel inlet pressure test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

Subchapter D. Inspection Procedures For School Buses

§821. General Information

A. These standards are adopted from the Minimum Standards for School Buses in Louisiana as promulgated by authority of Louisiana Revised Statute 17:164 which reads: The Louisiana State Board of Education is authorized, directed and empowered to establish and adopt regulations

relating to the construction, design, equipment and operation of school buses used in transportation of students to and from school.

B. Any passenger carrying vehicle, regardless of its class, with a capacity of more than seven (7) passengers and used exclusively in the transportation of teachers and pupils to and from schools or their institution of learning under contract or other arrangement made by or with the constituted and authorized school personnel shall be considered a school bus. The school bus must be painted national school bus glossy yellow. The uppermost top section of the roof may be painted white to reduce heat inside of the bus.

C. All school buses presented for inspection must adhere to all safety requirements, where applicable, and must also conform to motor carrier safety regulations. The bus must comply with the following items and devices in addition to all other requirements.

D. Before being approved to inspect school buses, official Motor Vehicle Inspection stations must meet the following qualifications:

1. The station must have an area large enough to accommodate a bus. The inspection area will be approved by a local Safety Enforcement Officer.

2. Mechanic inspectors must possess a valid driver's license. The mechanic inspector must also meet the minimum experience qualifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§823. General Inspection Procedures

A. Documents. Mechanic inspectors shall check the following:

1. registration. Parish owned buses are exempt from presenting the registration certificate and proof of insurance. However, the operator must sign the log report confirming liability insurance coverage;

2. license plate;

3. operator's license (must be appropriate type of CDL); and

4. proof of insurance.

B. Brakes. All school buses shall be equipped with a hydraulic brake system or an air brake system. Mechanics shall check for all of the following.

1. Hydraulic Brake System

a. The brakes must be able to stop the bus within thirty feet (30') at a speed of twenty miles per hour (20mph) with no children on board.

b. The master cylinder must be inspected.

2. Air brake systems must be inspected for:

a. at least two (2) reservoirs;

b. a safety valve on the first reservoir;

c. an air gauge;

d. an audible low pressure indicator;

e. hoses, tubes or connections shall be inspected for crimps, abrasions or breaks exposing cord;

f. audible air leaks; and

g. air chamber;

h. if visible, check brake shoes and drums for excessive wear or damage;

i. The push rod travel must be measured (see motor carrier chart) in lieu of a road test.

C. Fluid Leaks. Vehicle fluids include gasoline, transmission fluid, engine oil, bearing grease, water or radiator coolant and power steering fluid. No fluid leaks of any kind are allowed.

D. Lighting Systems. The lighting system will be checked as follows.

1. Interior Lamps. Interior lamps shall be used to provide adequate illumination of the interior compartment.

2. Identification Lamps. A school bus is required to have three (3) amber identification lamps on the front and three (3) red identification lamps on the rear of the bus. They should be mounted at the upper most center of the body of the bus spaced in a horizontal line not more than twelve (12) inches apart.

3. Clearance Lamps. A school bus is required to have clearance lamps mounted as high as possible on the permanent structure of the bus. The lights mounted on the front of the bus must be amber in color and those on the rear must be red. These lights must be mounted on each side of the bus and positioned in such a manner as to indicate the extreme width of the body of the bus.

4. Side Marker Lamps. School buses are required to have amber side marker lamps mounted on the front of the bus and red lamps on the rear. These must be on each side of the bus.

5. Reflectors. The school bus must be equipped with reflectors as follows.

a. Two (2) red reflectors shall be installed on the rear of the bus.

b. Two (2) reflex reflectors shall be installed on the side of the bus.

i. One (1) must be mounted at or near the front of the bus and must be amber in color.

ii. One (1) must be mounted at or near the rear of the bus and must be red in color. Buses thirty feet (30') or longer in length require one (1) amber reflex reflector on each side of the bus.

6. School bus alternately flashing lamps: A school bus should have alternately flashing lamps mounted at the same horizontal level which identify the vehicle as a school bus. They also inform other vehicle operators that the bus is stopped or about to stop to take on or discharge students.

a. School buses are required to have four (4) alternating flashing red signal lamps mounted at the same level and as high and as widely spaced as practical. Two (2) lamps must be mounted on the front and two (2) lamps must be mounted on the rear. All lamps must alternately flash.

b. All buses manufactured after July 7, 1977, must be equipped with four (4) alternately flashing yellow lamps mounted on the same level as the alternately flashing red lamps, but closer to the vertical center line on the bus. These lamps must display two (2) alternately flashing yellow lights to the front of the bus and two (2) alternately flashing yellow lights to the rear of the bus. The alternately flashing yellow lights must not light when the alternately flashing red lights are activated (during a stop).

c. The alternately flashing lamps (both red and yellow) must function with a manually activated switch only. No brake operated switches are allowed.

d. The school bus must be equipped with an audible or visible means of indicating to the driver that the signaling system is activated.

E. Left Hand Stop Arm Lamps

1. All buses manufactured after July 7, 1977, must be equipped with two (2) flashing red lights on each of the left hand stop arms with the light visible from both sides of the stop arms.

a. These lamps must activate when the stop arm is extended and the lamps must flash alternately.

2. When two (2) stop signal arms are installed on a school bus, the rearmost stop arm shall not contain any lettering, symbols or markings on the forward side.

3. The entire surface of both sides of the stop signal arm shall be of reflectorized material with type III reflector material that meets the minimum specific intensity requirements of S6.1 table 1. When two (2) stop signal arms are installed on a bus, the forward side of the rearmost stop signal arm shall not be reflective.

F. Stop Lamps. If the bus was manufactured after December 31, 1962, two (2) seven inch (7") stop lamps emitting red light only must be mounted on the rear of the bus as high as possible, but below the window line.

G. Turn Indicator Lamps

1. Buses are required to have electric turn signal lamps that indicate the direction of a turn.

2. If the bus was manufactured after August, 1970, it is required to have four (4) seven inch (7") turn indicator lamps.

a. Two (2) seven inch (7") amber turn signal lamps must be mounted toward the front of the bus on the same level and as high as practical, but not less than three feet (3') above the ground.

b. Two (2) lamps, either red or amber in color, to the rear must be mounted on the same level as the front turn indicator lamps.

3. Buses manufactured after August, 1970, are required to have operational four-way hazard warning signals.

H. Fog Lamps. Fog lamps are permissible provided that the lamps are properly installed and operational.

I. Mirrors. School buses are required to have an interior mirror, an exterior mirror and an exterior cross view mirror:

1. Interior mirror. Type A bus shall have a minimum of 6"x16" mirror and type B, C and D buses shall have a minimum of 6"x3" mirror.

2. Exterior mirror. Must have one (1) left and one (1) right hand mirror with a minimum of fifty square inches (50" sq.) of reflecting glass.

3. Exterior cross view mirror. Buses manufactured after July 1, 1979, shall have a mirror system which will provide a clear, unobstructed view of the area in front of the bus; the area immediately adjacent to the left and right front wheels and the entrance door.

a. Buses which provide an adequate view directly in front of the bus are not required to have a cross view mirror system.

J. Interior Doors

1. Service door (front passenger pick up door). It may be controlled manually or by power. It must be controlled by the bus driver only.

a. The vertical closing edges of the service door must be equipped with a flexible material to protect passenger's fingers.

2. Emergency Exit Door

a. The passage way to the emergency door must not be restricted in any way to less than twelve inches (12") in width.

b. There must not be steps to the emergency door when the door is in the closed position.

c. It must be equipped with a proper gasket around the door and the glass which furnishes a proper seal.

d. It must be equipped with an audible warning buzzer which notifies the driver's compartment that the door is open.

e. The emergency door mechanism shall function from the inside and outside.

f. The words Emergency Exit or Emergency Door shall be marked directly above the door on both the inside and outside in letters at least two inches (2") high.

g. There must be no manual locking of any doors while the bus is in operation. No pad locks can be used on any door while the bus is in operation.

K. Bumpers

1. Bumpers on a school bus must be painted glossy black.

2. The rear bumper must not have a trailer hitch or other device designed to aid in towing another vehicle.

L. School Bus Identification (Signs)

1. The words School Bus must be on the front and rear of the vehicle in plain, black letters at least eight inches (8") in height.

2. The stop arms shall be painted red with the word Stop in white letters.

M. Tires

1. The steering axle must have four thirty-seconds inch (4/32") tread.

2. The rear axle must have two thirty-seconds inch (2/32") tread. No re-grooved or re-capped tires are allowed on the steering axle.

N. Mud Flaps. All school buses manufactured on or after July 1, 1979, shall be equipped with mud flaps on the rear of the vehicle.

O. Front and Rear Suspension and Steering. The front of the bus must be lifted and the following items checked:

1. wheel bearings for excessive looseness and play;
2. king pins and bushings for excessive looseness;
3. drive shaft and universal joints for excessive wear;

and

4. ball joints for excessive wear.

P. Windshield, Windows, and Glass

1. The left front driver's window must readily open and close.

2. No cracks, discoloration or scratches to the front, rear, right or left of the driver which would interfere with his vision are allowed.

3. No window may be broken or have any exposed sharp edges. No window may have any cracked or separated glass allowing one piece of glass to move independently of another.

4. The windshield, not including a two inch (2") border at the top and a one inch (1") border at each side of the windshield or each panel thereof, may:

a. have any crack not over one quarter inch (1/4") wide, if not intersected by any other crack; or

b. have any damaged area which can be covered by a disc three-quarters of an inch (3/4") in diameter, if not closer than three inches (3") to any other such damaged area (Federal Motor Carrier Safety Regulation, 393.60).

5. Side windows must open and close properly.

6. Windows must have exposed edge of glass banded.

Q. Stepwell and Floor Covering

1. The stepwell and the aisle on buses manufactured after July 1, 1966, must be covered with a rubber, non-skid, wear resistant, ribbed material.

2. All openings in the floor board, such as the gear shift lever and auxiliary brakes, shall be sealed.

3. The stepwell must not be rusted in any area and must have sufficient strength to support passengers.

4. The aisle must not be restricted in any way to less than twelve inches (12") in width.

5. There must be no looseness in the stanchions, guard rails or grab rails.

R. First Aid Kit. The bus shall have a removable, moisture-proof and dust-proof first aid kit mounted in an accessible place within the driver's compartment. The first aid kit must contain the supplies necessary to administer first aid in an emergency situation.

S. Fire Extinguisher. The bus will be equipped with at least one ABC type of fire extinguisher. It must have a gauge of at least a five pound (5 lb) capacity. It must be mounted in the manufacturer's bracket of an automotive type. It must be located in the driver's compartment in a clearly marked location or in full view of and readily accessible to the driver. Fire extinguishers must have a valid and up-to-date certification.

T. Defrosters. The school bus will be equipped with defrosters which shall be capable of keeping the windshield, driver's left window and glass entrance door clear of fog, frost and snow. In addition, buses manufactured on or after July 7, 1979, shall be equipped with an auxiliary fan at least six inches (6") in diameter. The fan must be located in the center of the windshield to provide maximum effectiveness to the right side of the windshield and the service door.

U. Sun Shield. An interior adjustable, transparent sun shield, not less than six inches by thirty inches (6"x30"), supported by two (2) brackets shall be installed so that it can be turned up when not in use.

V. Instrument Panel

1. The instrument panel must have a lamp which effectively illuminates all instruments and gauges.

2. The school bus must be equipped with an operational beam indicator to indicate the bright/dim setting on headlamps.

3. All wiring under the instrument panel must not be hanging. Wiring must be tucked under the panel.

W. Seat Belts, Seats, and Guard Rails

1. The driver's compartment must be equipped with an approved seat belt for the driver.

2. No exposed padding, springs or wires will be allowed on the seats or guard rails.

3. If a rip or tear is not more than three inches (3") long, the seats may be taped. However, no more than three (3) pieces of tape may be used per seat.

4. No overhead storage compartments or racks shall be permitted inside the bus.

X. Battery. The battery for the school bus must be secured with some type of tie-down device. Bungee cords and bailing wire are not allowed.

Y. Exhaust

1. Inspect the exhaust system for leaks, rusted areas, broken hanger, etc.

2. The end of the exhaust system may turn and exit at the rear, side edge of the bus or it may go past the rear bumper no more than two inches (2"). In any case, the exhaust system must extend past the passenger compartment of the bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

Subchapter D. Federal Motor Carrier Safety Regulations §825. General Information

A. Certain types of vehicles are subject to federal regulations in connection with Louisiana's Motor Vehicle Inspection Program. A commercial vehicle is defined as any self-propelled or towed vehicle used on public highways in commerce to transport passengers or property when:

1. the vehicle has a gross vehicle weight rating or gross combination weight rating as follows.

a. Interstate Commerce. The vehicle travels from this state to another state and has a weight rating of 10,001 pounds or more.

b. Intrastate Commerce. The vehicle travels only in Louisiana and has a weight rating of 20,001 pounds or more;

2. the vehicle is designed to transport more than fifteen (15) passengers, including the driver;

3. the vehicle is used in the transportation of hazardous material in a quantity requiring placarding under regulations issued by the Secretary under the Hazardous Material Transportation Act.

B. Under L.R.S. 32:1304.1, farm vehicles which are not registered and do not have a license plate are exempt from the inspection requirements. However, if the farm vehicle is registered and does display a license plate and it qualifies as a commercial motor vehicle as defined above, it must meet the requirements for the Federal Motor Carrier Safety Program.

C. The federal regulations mandate that this motor carrier safety inspection will be conducted on an annual basis, with the commercial vehicle inspection report completed with each yearly inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§827. Code of Federal Regulations (C.F.R.) §390.15 Motor Carrier Safety Regulations

A. The term motor carrier includes a common carrier by motor vehicle, a contract carrier by motor vehicle and a private carrier of property by motor vehicle.

B. Code of Federal Regulations (C.F.R.) §396.15 Driveaway-Towaway Operations and Inspections. Effective July 1, 1990, every motor carrier, with respect to motor

vehicles engaged in driveaway-towaway operations, shall comply with the requirements of this part. Exceptions: maintenance records required by 396.3; the vehicle inspection report required by 396.11; and the periodic inspection required by 396.17 of this part shall not be required for any vehicle which is part of the shipment being delivered.

C. C.F.R. 396.17 Periodic Inspection

1. Every commercial motor vehicle shall be inspected as required by this section. The inspection shall include, at a minimum, the parts and accessories set forth in LAC 55:III.829. The term commercial motor vehicle includes each vehicle in a combination vehicle. For example, for a tractor semitrailer, full trailer combination, the tractor, semi-trailer and the full trailer (including the converter dolly if so equipped) shall be inspected.

2. Except as provided in C.F.R. 396.23, a motor carrier shall inspect or cause to be inspected all motor vehicles subject to its control.

3. A motor carrier shall not use a commercial motor vehicle unless each component identified in LAC 55:III.829 has passed an inspection in accordance with the terms of this section at least once during the preceding twelve (12) months. The commercial inspection certificate conforms with C.F.R. 396.17-C-2, which waives the requirement that a copy of the commercial annual inspection form be carried in the vehicle.

4. It shall be the responsibility of the motor carrier to ensure that all parts and accessories not meeting the minimum standards set forth in LAC 55:III.829 are repaired promptly.

5. Failure to perform properly the annual inspection set forth in this section shall cause the motor carrier to be subject to the penalty provisions provided by 49 U.S.C. 521(B).

D. C.F.R. 396.21 Periodic Inspection/Record-Keeping Requirements

1. The qualified inspector performing the inspection shall complete the Record of Annual Commercial Inspection form (DPSMV-4206) in its entirety.

2. The original or a copy of the inspection report shall also be retained by the motor carrier under whose control the vehicle operates for thirty (30) consecutive days or more, for a period of one (1) year. The inspection report shall be retained where the vehicle is either housed or maintained. The original or a copy of the inspection report shall be available for inspection upon demand of an authorized federal, state or local official.

a. The second copy must be mailed to the local Safety Enforcement Office. These reports shall be mailed at the same time as the regular safety inspection reports.

b. The third copy shall be kept in the commercial log book at the station for fourteen (14) months. If a station inspects no vehicles during a given week/month, one report shall be submitted as previously described, with the word none written across the face of the report.

3. A Record of Annual Commercial Inspection form will be completed for each unit inspected, i.e. tractor, trailer, converter dolly, etc. When a Record of Annual Commercial Inspection form is completed, the regular weekly/monthly log report need not be filled out.

4. A rejected vehicle is entitled to one free re-inspection if returned to the same inspection station within the allowed period of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

§829. Minimum Periodic Inspection Standards

A. As per minimum periodic inspection standards, a vehicle does not pass inspection if it has any one of the following defects or deficiencies and the vehicle shall be issued a restricted rejection certificate.

B. Brake System

1. Service Brakes

a. Absence of braking action on any axle required to have brakes upon application of the service brakes (such as missing brakes or brakes shoe(s) failing to move upon application of a wedge, s-cam or disc brake).

b. Missing or broken mechanical components, including shoes, lining, pads, springs, anchor pins, spiders and cam shaft support brackets.

c. Audible air leak at brake chamber (ex. ruptured diaphragm, loose chamber clamp, etc.).

d. Readjustment limits. The maximum stroke at which brakes should be readjusted is shown in the columns below. Any brake one-fourth inch (1/4") or more past the readjustment limit or any two (2) brakes less than one-fourth inch (1/4") beyond the readjustment limit shall be cause for rejection. Stroke shall be measured with the engine off and reservoir pressure of 80 to 90 psi with brakes fully applied. Wedge Brake Data: Movement of the scribe mark on the lining shall not exceed one-sixteenth inch (1/16").

The Maximum Stroke At Which Brakes Should Be Readjusted

Type	Effective Area (Square Inch)	Outside Diameter (Inches)	Maximum Stroke at Which Brakes Should Be Readjusted
BOLT TYPE BRAKES CHAMBER DATA			
A	12	6 15/16	1 3/8
B	24	9 3/16	1 3/4
C	16	8 1/16	1 3/4
D	6	5 1/4	1 1/4
E	9	6 3/16	1 3/8
F	36	11	2 1/4
G	30	9 7/8	2
ROTOCHAMBER DATA			
9	9	4 9/32	1 1/2
12	12	4 13/16	1 1/2
16	16	5 13/32	2
20	20	5 15/16	2
24	24	6 13/32	2
30	30	7 1/16	2 1/4
36	36	7 5/8	2 3/4
50	50	8 7/8	3
CLAMP TYPE BRAKE CHAMBER DATA			
6	6	4 1/2	1 1/4
9	9	5 1/4	1 3/8
12	12	5 11/16	1 3/8
16	16	6 3/8	1 3/4
20	20	6 25/32	1 3/4
24	24	7 7/32	1 3/4**
30	30	8 3/32	2
36	36	9	2 1/4

**2" for long stroke design

- e. Brake Lining or Pads
 - i. Lining or pad is not firmly attached to the shoe.
 - ii. Saturated with oil, grease or brake fluid.
 - iii. Non-steering axles. Lining with a thickness less than one-fourth inch (1/4") at the shoe center for air drum brakes, one-sixteenth inch (1/16") or less at the shoe center for hydraulic and electric drum brakes, and less than one-eighth inch (1/8") for air disc brakes.
 - iv. Steering brakes. Lining with a thickness less than one-fourth inch (1/4") at the shoe center from drum brakes, less than one-eighth inch (1/8") for air disc brakes and one-sixteenth inch (1/16") or less for hydraulic disc and electric brakes.
 - f. Missing brakes on axle required to have brakes
 - g. Mismatch across any power unit steering axle of:
 - i. air chamber size
 - ii. slack adjuster length
- 2. Parking Brake System. No brakes on the vehicle or combination are applied upon actuation of the parking brake control, including drive line hand controlled parking brakes.
- 3. Brake Drums or Rotors
 - a. With any external crack or cracks that open upon brake application. (Do not confuse short hairline heat check cracks with flexural cracks.)
 - b. Any portion of the drum or rotor missing or in danger of falling away.
- 4. Brake Hose
 - a. Hose with any damage extending through the outer reinforcement ply. (Rubber impregnated fabric cover is not a reinforcement ply.) (Thermoplastic nylon may have braid reinforcement or color difference between cover and inner tube. Exposure of second color is cause for rejection.)
 - b. Bulge or swelling when air pressure is applied.
 - c. Any audible leaks.
 - d. Two hoses improperly joined (such as a splice made by slicing the hose ends over a piece of tubing and clamping the hose to the tube). (Exception: A splice utilizing a reverse claw connector is acceptable.)
 - e. Air hose cracked, damaged by heat, broken or crimped.
- 5. Brake Tubing
 - a. Any audible leaks.
 - b. Tubing cracked, damaged by heat, broken or crimped.
- 6. Low Pressure Warning Device. Missing, inoperative or does not operate at fifty-five (55) psi and below, or one-half the governor cut-out pressure, whichever is less.
- 7. Tractor Protection Valve. Inoperable or missing tractor protection valve(s) on power unit.
- 8. Air Compressor
 - a. Compressor drive belts in condition of impending or probable failure.
 - b. Loose compressor mounting bolts.
 - c. Cracked, broken or loose pulley.
 - d. Cracked or broken mounting brackets, braces or adapters.
- 9. Electric Brakes
 - a. Absence of braking action on any wheel required to have brakes.
 - b. Missing or inoperable breakaway braking device.

- 10. Hydraulic Brakes (including power assist over hydraulic and engine drive hydraulic booster)
 - a. Master cylinder less than one-fourth (1/4) full.
 - b. No pedal reserve with engine running except by pumping pedal.
 - c. Power assist unit fails to operate.
 - d. Seeping or swelling brake hose(s) under application of pressure.
 - e. Missing or inoperable check valve.
 - f. Has any visually observed leaking hydraulic fluid in the brake system.
 - g. Has hydraulic hose(s) abraded (chafed) through outer cover to fabric layer.
 - h. Fluid lines or connections leaking, restricted, crimped or broken.
 - i. Brake failure or low fluid warning light on and/or inoperable.
- 11. Vacuum System
 - a. Has insufficient vacuum reserve to permit one full brake application after engine is shut off.
 - b. Has vacuum hose(s) or line(s) restricted, abraded (chafed) through outer cover to cord ply, crimped, cracked, broken or has collapse of vacuum hose(s) when vacuum is applied.
 - c. Lacks an operable low-vacuum warning device as required.
- B. Coupling Devices
 - 1. Fifth Wheels
 - a. Mounting to frame
 - i. Any fasteners missing or ineffective.
 - ii. Any movements between mounting components.
 - iii. Any mounting angle iron cracked or broken.
 - b. Mounting plates and pivot brackets
 - i. Any fasteners missing or ineffective.
 - ii. Any welds or parent metal cracked.
 - iii. More than three-eighth inch (3/8") horizontal movement between pivot bracket pin and bracket.
 - iv. Pivot bracket pin missing or not secured.
 - c. Sliders
 - i. Any latching fasteners missing or ineffective.
 - ii. Any fore or aft stop missing or not securely attached.
 - iii. Movement more than three-eighth inch (3/8") between slider bracket and slider base.
 - iv. Any slider component cracked in parent metal or weld.
 - d. Lower Coupler
 - i. Horizontal movement between the upper and lower fifth wheel halves exceeds one-half inch (").
 - ii. Operating handle not in closed or locked position.
 - iii. Kingpin not properly engaged.
 - iv. Separation between upper and lower coupler allowing light to show through from side to side.
 - v. Crack in the fifth wheel plate. Exceptions: Cracks in the fifth wheel approach ramps and casting shrinkage cracks in the ribs of the body or a cast fifth wheel.
 - vi. Locking mechanism parts missing, broken or deformed to the extent the kingpin is not securely held.

2. Pintle Hooks
 - a. Mounting to frame
 - i. Any missing or ineffective fasteners (a fastener is not considered missing if there is an empty hole in the device, but no corresponding hole in the frame or vice versa).
 - ii. Mounting surface cracks extending from point of attachment (e.g. cracks in the frame at mount bolt holes).
 - iii. Loose mounting.
 - iv. Frame cross member providing pintle hook attachment cracked.
 - b. Integrity
 - i. Cracks anywhere in pintle hook assembly.
 - ii. Any welded repairs to the pintle hook.
 - iii. Any part of the horn section reduced by more than twenty percent (20%).
 - iv. Latch insecure.
 3. Drawbar/Towbar Eye
 - a. Mounting
 - i. Any cracks in attachment welds.
 - ii. Any missing or ineffective fasteners.
 - b. Integrity
 - i. Any cracks.
 - ii. Any part of the eye reduced by more than twenty percent (20%).
 4. Drawbar/Towbar Tongue
 - a. Slider (power or manual)
 - i. Ineffective latching mechanism.
 - ii. Missing or ineffective stop.
 - iii. Movement of more than one-fourth inch (1/4") between slider and housing.
 - iv. Any leaking, air or hydraulic cylinders, hoses or chambers (other than slight oil weeping normal with hydraulic seals).
 - b. Integrity
 - i. Any cracks.
 - ii. Movement of one-fourth inch (1/4") between subframe and drawbar at point of attachment.
 5. Safety Devices
 - a. Safety devices missing
 - b. Unattached or incapable of secure attachment
 - c. Chains and hooks
 - i. Worn to the extent of a measurable reduction in link cross section.
 - ii. Improper repairs including welding, wire or small bolts, rope and tape.
 - d. Cable
 - i. Kinked or broken cable stands.
 - ii. Improper clamps or clamping.
 6. Saddle-Mounts
 - a. Method of attachment
 - i. Any missing or ineffective fasteners.
 - ii. Loose mountings.
 - iii. Any cracks or breaks in a stress or load bearing member.
 - iv. Horizontal movement between upper and lower saddle-mount halves exceeds one-fourth inch (1/4").
- C. Exhaust System
1. Any exhaust system determined to be leaking at a point forward of or directly below the driver/sleeper compartment.

2. A bus exhaust system leaking or discharging to the atmosphere.
 - a. Gasoline powered - excess of six (6) inches forward of the rearmost part of the bus.
 - b. Other than gasoline powered - in excess of fifteen inches (15") forward of the rear most part of the bus.
 - c. Other than gasoline powered - forward of the door or window designed to be opened. (Exception: Emergency exits).
3. No part of the exhaust system of any motor vehicle shall be so located as would be likely to result in burning, charring, damaging the electrical wiring, the fuel supply or any combustible part of the motor vehicle.

D. Fuel System

1. A fuel system with a visible leak at any point.
2. A fuel tank filler cap missing.
3. A fuel tank not securely attached to the motor vehicle by reason of loose, broken or missing mounting bolts or brackets (some fuel tanks use springs or rubber bushing to permit movement).

E. Lighting Devices. All lighting devices and reflectors required by Section 393 shall be operable.

F. Safe Loading

1. Part(s) of the vehicle or condition of loading such that the spare tire or any part of the load or dunnage can fall onto the roadway.
2. Protection against shifting cargo. Any vehicle without a front-end structure or equivalent device as required.

G. Steering Mechanism

1. Steering Wheel Free Play
 - a. On vehicles equipped with power steering the engine must be running.

Steering Wheel Diameter	Manual Steering System	Power Steering System
6"	2"	4 "
18"	2 1/4"	4 3/4"
20"	2 "	5 1/4"
22"	2 3/4"	5 3/4"

2. Steering Column
 - a. Any absence or looseness of u-bolt(s) or positioning part(s).
 - b. Worn, faulty or obviously repair welded universal joints.
 - c. Steering wheel not properly secured.
3. Front Axle Beam and all Steering Components other than Steering Column
 - a. Any crack(s).
 - b. Any obvious welded repair(s).
4. Steering Gear Box
 - a. Any mounting bolt(s) loose or missing.
 - b. Any crack(s) in gear box or mounting brackets.
5. Pitman Arm. Any looseness of the pitman arm on the steering gear output shaft.
6. Power Steering. Auxiliary power assist cylinder loose.

7. Ball and Socket Joints
 - a. Any movement under steering load of a stud nut.
 - b. Any motion, other than rotational, between any linkage member and its attachment point of more than one-fourth inch (1/4).

8. Tie Rods and Drag Links

- a. Loose clamp(s) or clamp bolt(s) on tie rods or drag links
 - b. Any looseness in any threaded joint.
9. Nuts. Nut(s) loose or missing on tie rods, pitman arm, drag link, steering arm or tie rod arm.

10. Steering System. Any modification or other condition that interferes with free movement of any steering component.

- H. Suspension

1. Any u-bolt(s), spring hanger(s) or other axle positioning part(s) cracked, broken, loose or missing resulting in shifting of an axle from its normal position (after a turn, lateral axle displacement is normal with some suspensions. Forward or rearward operation in a straight line will cause the axle to return to alignment).

2. Spring Assembly

- a. Any leaves in a leaf spring assembly broken or missing.
- b. Any broken main leaf in a leaf spring assembly. (Includes assembly with more than one main spring.)
- c. Coil spring broken.
- d. Rubber spring missing.
- e. One or more leaves displaced in a manner that could result in contact with a tire, rim, brake drum or frame.
- f. Broken torsion bar spring in a torsion bar suspension.
- g. Deflated air suspension, i.e. system failure, leak, etc.

3. Torque, Radius, or Tracking Components

- a. Any part of a torque, radius or tracking component assembly or any part used for attaching the same to the vehicle frame or axle that is cracked, loose, broken or missing. (Does not apply to loose bushing in torque or track rods.)

- I. Frame

1. Frame Member

- a. Any cracked, broken loose or sagging frame member.
- b. Any loose or missing fasteners including fasteners attaching functional components such as engine, transmission, steering gear suspension, body parts and fifth wheel.

2. Tire and Wheel Clearance. Any condition, including loading, that causes the body or frame to be in contact with a tire or any part of the wheel assembly.

3. Adjustable axle assemblies. Adjusting axle assembly with locking pins missing or not engaged.

- J. Tires

1. Any Tire on any Steering Axle of a Power Unit
 - a. With less than four-thirty seconds inch (4/32") tread when measured at any point on a major tread groove.
 - b. Has body ply or belt material exposed through the tread or sidewall.
 - c. Has any tread or sidewall separation.
 - d. Has a cut where the ply or belt material is exposed.

- e. Labeled Not for Highway Use or displaying other markings which would exclude use on steering axle.

- f. A tube-type radial tire without radial tube stem markings. These markings include a red band around the tube stem or the word Radial embossed in metal stems, or the word Radial molded in rubber stems.

- g. Mixing bias and radial tires on the same axle.

- h. Tire flap protrudes through valve slot in rim and touches stem.

- i. Re-grooved tire except motor vehicles used solely in urban or suburban service (see exception in 393.76(E)).

- j. Boot, blowout patch or other ply repairs.

- k. Weight carried exceeds tire load limit. This includes overloaded tire resulting from low air pressure.

- l. Tire is flat or has noticeable (e.g. can be heard or felt) leak.

- m. Any bus equipped with recapped or retreaded tire(s).

- n. So mounted or inflated that it comes in contact with any part of the vehicle.

2. All tires other than those found on the steering axle of a power unit

- a. Weight carried exceeds tire load limit. This includes overloaded tire(s) resulting from low air pressure.

- b. Tire is flat or has noticeable (e.g. can be heard or felt) leak.

- c. Has body ply or belt material exposed through the tread or sidewall.

- d. Has any tread or sidewall separation.

- e. Has a cut where ply or belt material is exposed.

- f. So mounted or inflated that it comes in contact with any part of the vehicle. (This includes a tire that contacts its mate.)

- g. Is marked Not for Highway Use or otherwise marked and having like meaning.

- h. With less than two-thirty seconds inch (2/32") tread when measured at any point on a major tread groove.

- K. Wheels and Rims

1. Lock or Side Ring. Bent, broken, cracked, improperly seated, sprung or mismatched ring(s).

2. Wheels and Rims. Cracked or broken or has elongated bolt holes.

3. Fasteners (both spoke and disc wheels). Any loose, missing, broken, cracked, stripped or otherwise ineffective fasteners.

4. Welds

- a. Any cracks in welds attaching disc wheel disc to rim.

- b. Any cracks in welds attaching tubeless demountable rim to adapter.

- c. Any welded repair on aluminum wheel(s) on steering axle.

- d. Any welded repair other than disc to rim attachment on steel disc wheel(s) mounted on the steering axle.

- L. Windshield Glazing

1. Any crack, discoloration or vision reducing matter except:

- a. Coloring or tinting applied at the time of manufacture.

b. Any crack not over one-fourth inch (1/4") wide if not intersected by any other crack.

c. Any damage area not more than three-fourths inch (3/4") in diameter, if not closer than three inches (3") to any other such damaged area.

d. Labels, stickers, decals, etc. (see C.F.R. 393.60 for exceptions).

2. These prohibitions shall not apply to the area consisting of a two inch (2") border at the top, a one inch (1") border at each side and the area below the topmost portion of the steering wheel.

M. Windshield Wiper. Any power unit that has an inoperable wiper, or missing or damaged parts that render it ineffective.

N. Fire Extinguisher. Fire extinguisher must be properly filled and securely fastened in an approved type mount in a readily accessible location on the power unit.

O. Bi-Directional Triangles. Three bi-directional emergency reflective triangles that conform to the requirements of Federal Motor Safety Standard No. 125, 571.125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

831. Additional Requirements

All vehicles presented for inspection for motor carrier shall also comply to all safety requirements where applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:

Subchapter E. Administrative and Audit Procedures

833. Investigations; Administrative Actions; Sanctions

A. The Motor Vehicle Inspection station owner/operator may be investigated for violating any requirement imposed by any inspection law, or any rule or regulation set forth by this Department. The Department may initiate an administrative proceeding to require the Motor Vehicle Inspection station owner/operator to comply with any requirement contained in any statute or any rule or regulation. The Department may also issue an action or order in connection with a violation of any statute or rule to impose an administrative sanction including a suspension, revocation or cancellation of any license, permit, certificate or authorization issued pursuant to LAC 55, Part III, Chapter 8 or to impose a civil administrative fine.

B. A person who has been denied any license, permit, certification or authorization provided by LAC 55, Part III, Chapter 8, as well as any person who has been subject to any action, order or decision of the Department pursuant to LAC 55, Part III, Chapter 8, may make a written request for an administrative hearing to review such action, order, decision, or denial within thirty days of the date of such action, order, decision, or denial. The failure to make a timely written request as provided in LAC 55, Part III, Chapter 8, 805 shall result in such action, order, decision, or denial becoming final and no longer subject to review. The thirty day period provided in LAC 55, Part III, Chapter 8, 805(B)

shall commence on the date the action, order, decision, or denial is mailed or hand delivered to the person, as the case may be.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:0000 (September 1999).

835. Declaratory Orders and Rulings

A.1. Any person desiring a ruling on the applicability of R.S. 32:1301 et seq., or any other statute, or the applicability or validity of any rule, regarding the inspection of motor vehicles as provided in Louisiana Motor Vehicle Inspection Law shall submit a written petition to the Deputy Secretary for the Department.

2. The written petition shall cite all, constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition seeks an order or ruling on any action, order or decision of the Department, including the issuance or denial of any license, permit, certification, authorization or approval, the person submitting the petition shall notify all persons specifically named in the action, order or decision, if the person submitting the petition is not one of the named persons. Such notice shall be sent by certified mail, return receipt requested. In such case, the petition shall not be considered until proof of such notice has been submitted to the assistant secretary, or until the person petitioning for the order or ruling establishes that the person required to receive notice cannot be notified after a due and diligent effort. The notice shall include a copy of the petition submitted to the Deputy Secretary.

C. The Deputy Secretary, or his designee, may request the submission of legal memoranda to be considered in rendering any order or ruling. The Deputy Secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the Deputy Secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as all other persons provider receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The Deputy Secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1301 et seq. and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These rules should have no effect on the stability of the family. There should be an insignificant impact on families

with motor vehicles registered in the five parish nonattainment area of an additional three dollars a year for a motor vehicle inspection.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules do not address education or parental supervision.

3. The Effect of these Rules on the Functioning of the Family. These rules should not impact the functioning of the family. The additional three dollar fee should not be significant.

4. The Effect of these Rules on Family Earnings and Family Budget. The increased fee of three dollars in the five parish nonattainment area is the only effect of these rules.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules should not affect children as they cannot own property.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. The function required by these rules is to be performed by the inspection stations. As a result, there should be no requirement on the family or local governments to perform these functions.

Persons having comments or inquiries regarding these proposed rules may contact Stephen A. Quidd, attorney for the Office of State Police by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by Wednesday, October 20, 1999. A public hearing on these rules is tentatively scheduled for Wednesday, October 27, 1999, at 9:00 a.m. in the Executive Conference Room at the Office of Motor Vehicle Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing.

Nancy Von Nortwick
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Motor Vehicle Inspection Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost to the Department of printing manuals is \$1,081.00. There will be no costs to local governments. Pursuant to an existing contract, the Department is currently receiving \$80,000 from the Department of Environmental Quality (DEQ) in connection with the current emission testing. This funding will continue and will be used in connection with both the state wide vehicle emission inspection and maintenance program and the new inspection program in the five parish nonattainment area. At present, there are on going negotiations between the Department and the DEQ to increase the money received from DEQ by \$20,000 to fund additional expenses which may be incurred because of the new emissions inspections in the five parish nonattainment area.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collection by the Department of Public Safety and Corrections except as

indicated in the previous response to item I in connection with the contract renegotiations. The rules are simply an updating of an existing program. These rules do not address any increase in fees. Act No. 576 of the 1999 Regular Legislative Session required a fee increase of three dollars for inspections conducted for vehicles registered in the nonattainment area. This fee increase took effect on July 1, 1999, as provided in the legislation, and is to be retained by the inspection station to cover the cost of obtaining the equipment necessary to do the inspections in the nonattainment area. Effective January 1, 2000, the fees collected will be deposited into the Environmental Trust Fund unless DEQ adopts a rule reducing the three dollar fee increase. DEQ is also authorized to adopt a rule to permit the inspection stations to retain up to two dollars of the three dollar fee after January 1, 2000 to cover the costs of additional labor and equipment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no cost and/or economic benefit to the inspection stations other than the acquisition of equipment funded through fees retained by the inspection stations in the nonattainment area which are intended for costs associated with additional inspection requirements. The manuals will be given to MVI stations at no cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Nancy Van Nortwick
Undersecretary
9909#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Public Safety Services
Office of Management and Finance**

Drug Testing Policy (LAC 55:XI.301-317)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Executive Order MJF 98-38 and R.S. 49:1001 et seq., notice is hereby given that the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, proposes to adopt LAC 55:XI.301-317 to provide for the implementation of a drug-testing program for new and existing employees. This policy shall apply to all employees of Public Safety Services.

Title 55

PUBLIC SAFETY

Part XI. Office of Management and Finance

Chapter 3. Drug Testing Policy

§301. Introduction and Purpose

A. The employees of Public Safety Services are among the state's most valuable resources, and the physical and mental well-being of our employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, affecting their productivity, health and safety, dependents, and co-workers, as well as the general public.

B. The State of Louisiana and Public Safety Services have a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by

employees of the state of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the State of Louisiana issued Executive Order MJF 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to Louisiana Revised Statute 49:1001, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§303. Applicability

Public Safety Services fully supports these efforts and is committed to a drug-free workplace. This policy shall apply to all employees of Public Safety Services including appointees and all other persons having an employment relationship with this agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§305. Definitions

Controlled Substances—a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

Designer (Synthetic) Drugs—those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee—unclassified, classified, and student employees, student interns, and any other person having an employment relationship with this agency, regardless of the appointment type (e.g., full-time, part-time, temporary, restricted, detail, job appointment, etc.).

Illegal Drug—any drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

Reasonable Suspicion—belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

Safety-Sensitive or Security-Sensitive Position—a position determined to contain duties of such nature that the compelling State interest to keep the incumbent drug-free outweighs the employee's privacy interests. At varying degrees, all Public Safety Services employees, regardless of rank or classification, have access to records that directly or indirectly affect the safety and security of residents of the State of Louisiana (i.e., Criminal Records, Drivers License Records, etc.). For this reason, all positions of Public Safety Services are considered to be "safety-sensitive" or "security-sensitive".

Under the Influence—for the purposes of this policy—a drug, chemical substance, or the combination of a drug

and/or chemical substance that affects an employee in any detectable manner. The symptoms of influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech, or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

Workplace—any location on agency property including all property, offices, and facilities (including all vehicles and equipment) whether owned, leased, or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§307. Policy

A. It shall be the policy of Public Safety Services to maintain a drug-free workplace and workforce free of substance abuse. Employees are prohibited from reporting to work or performing work for Public Safety Services with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the State of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs, at the work site and while on official state business, on duty or on call for duty.

B. To assure maintenance of a drug-free workplace, it shall be the policy of Public Safety Services to implement a program of drug testing, in accordance with Executive Order No. MJF 98-38, R.S. 49:1001, et seq., and all other applicable federal and state laws, as set forth below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§309. Conditions Requiring Drug Tests

Reasonable Suspicion: Any employee shall be required to submit to a drug test if there is reasonable suspicion (as defined in this policy) that the employee is using drugs.

1. Post Accident. Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to a drug test if the accident: a) involves circumstances leading to a reasonable suspicion of the employee's drug use, or, b) results in a fatality.

2. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency following an incident involving substance abuse shall be required to submit to random drug testing.

3. Pre-employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the Human Resource Director following a job offer contingent upon a negative drug-testing result.

Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration of employment.

4. **Safety-Sensitive or Security-Sensitive Positions—Random Testing.** As every Public Safety Services position is considered to be "safety-sensitive" or "security-sensitive", every employee shall be required to submit to drug testing as required by the Appointing Authority, who shall periodically (quarterly) call for a sample of such employees, selected at random by a computer generated random selection process, and require them to report for testing. All such testing shall, if applicable, occur during the selected employee's work schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§311. Procedure

A. Drug testing pursuant to this policy shall be conducted for the presence of cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001, et. seq. Public Safety Services reserves the right to test its employees for the presence of any other illegal drug or controlled substance when there is reasonable suspicion to do so.

B. The Human Resource Director and the Deputy Undersecretary shall be involved in any determination that one of the above-named conditions requiring drug testing exists. All recommendations for drug testing must be approved by Public Safety Services. Upon such final determination by the responsible officials, the Human Resource Director shall notify the supervisor of the employee to be tested, who shall immediately notify the employee where and when to report for the testing.

C. Testing services shall be performed by a provider chosen by the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws. At a minimum, the testing service shall assure the following.

1. All specimen collections will be performed in accordance with applicable federal and state regulations and guidelines to ensure the integrity of the specimen and the privacy of the donor. The Human Resource Director shall review and concur in advance with any decision by a collection site person to obtain a specimen under direct supervision. All direct observation shall be conducted by a same gender collection site person.

2. Chain of custody forms must be provided to ensure the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

3. A Substance Abuse and Mental Health Services Administration (SAMSHA)—certified laboratory shall perform testing.

4. The laboratory shall use a cut-off of 50 ng/ml for a positive finding in testing for cannabinoids.

5. All positives reported by the laboratory must be confirmed by Gas Chromatography/Mass Spectrometry.

D. All positive results of a drug-testing shall be reported by the laboratory to a qualified medical review officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§313. Confidentiality

All information, interviews, reports, statements, memoranda, and/or test results received by Public Safety Services through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained to discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§315. Responsibility

A. The Deputy Secretary of Public Safety Services is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs for testing, and the effectiveness of the program by November 1 of each year.

B. The Human Resource Director is responsible for administering the drug testing program; recommending to the Deputy Secretary when drug testing is appropriate; receiving, acting on, and holding confidential all information received from the testing services provider and from the medical review officer; collecting appropriate information necessary to agency defense in the event of legal challenge; and providing the Deputy Secretary with the data necessary to submit a detail report to the Office of the Governor as described above.

C. All supervisory personnel are responsible for reporting to the Human Resource Director any employee they suspect may be under the influence of any illegal drug and/or chemical substance. Supervisory personnel are also responsible for assuring that each employee under their supervision receives a copy of this policy, signs a receipt form, and understands or is given the opportunity to understand and have questions answered about its contents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

§317. Violation of the Policy

Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, will result in actions up to and including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 25:

Persons having comments or inquiries regarding these proposed rules may contact Nancy Dewitt, by writing to P.O.

Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-6067. These comments and inquiries should be received by Monday, October 25, 1999.

Family Impact Statement

1. The Effect on the Stability of the Family. These rules should have no effect on the stability of the family. These rules regulating drug testing of Department employees in the work place.

2. The Effect of the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules do not address education or parental supervision.

3. The Effect on the Functioning of the Family. These rules should not impact the functioning of the family. The drug testing program does not impose any cost on the family.

4. The Effect on Family Earnings and Family Budget. These rules should have no effect on family earnings.

5. The Effect on the Behavior and Personal Responsibility of Children. These rules should have no effect on the behavior and personal responsibility of children as the rules only apply to Department employees.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. These rules do not make any requirements on the family. These rules only apply to Department employees.

Nancy Van Nortwick
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Drug Testing Policy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In order to provide drug testing for 66 percent of the Department's employees, an estimated implementation cost of \$29,502 would be incurred. The estimated implementation costs for each agency is as follows:

Management & Finance	\$1,725
State Police	\$19,593
Motor Vehicles	\$6,525
Fire Marshal	\$1,366
LP Gas	\$165
Highway Safety	\$128

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of a Drug Testing Policy within the Department will have no effect on revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The implementation of a Drug Testing Policy within the Department will not require the Department's employees to incur any costs nor will the implementation provide an economic benefit to the Department's employees. Presumably this rule will result in a more productive workforce since this rule will decrease likelihood that an employee will report for work under the influence of drugs.

There may be a cost to an employee who has tested positive for drugs on more than one occasion. This employee may be subject to disciplinary action which could range from a reprimand to termination.

The Department is unable to determine the costs and/or economic benefits of the vendor who will be awarded the contract for the drug testing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no significant effect on competition and employment as a result of the implementation of this internal Department policy. There may be some benefit to the vendor who is awarded the state contract to analyze the samples for drugs.

Nancy Van Nortwick
Undersecretary
9909#068

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Office of the Secretary**

Electronic Funds Transfer (LAC 61:I.4910)

Under the authority of R.S. 47:1519 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Department of Revenue proposes to amend LAC 61:I.4910 pertaining to the electronic funds transfer of tax payments.

These proposed amendments are to reflect statutory changes enacted by Act 204 of the 1999 Regular Session of the Louisiana Legislature, which amended R.S. 47:1519(B) to require electronic funds transfer of tax payments if a taxpayer files tax returns more frequently than monthly and during the preceding 12-month period the average total payments exceed \$20,000 per month or if a company files withholding tax returns and payments on behalf of other taxpayers and during the preceding 12-month period, the average total payments for all tax returns filed exceed \$20,000 per month.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 49. Tax Collection

§4910. Electronic Funds Transfer

A. Electronic Funds Transfer Requirements

1. Taxpayers whose payments in connection with the filing of any business tax return or report, including declaration payments, during the prior 12-month period average \$20,000 or more will be required to remit the respective tax or taxes electronically or by other immediately investible funds.

2. Taxpayers that file tax returns more frequently than monthly and, during the preceding 12-month period, the average payment exceeds \$20,000 per month will be required to remit tax payments electronically or by other immediately investible funds.

3. Companies that file withholding tax returns and payments on behalf of other taxpayers and during the preceding 12-month period, the average total payments for all tax returns filed exceed \$20,000 per month will be required to remit the respective tax or taxes electronically or by other immediately investible funds.

4. Any taxpayer whose tax payments for a particular tax averages less than \$20,000 per payment may voluntarily remit amounts due by electronic funds transfer with the approval of the secretary. Once a taxpayer requests to electronically transfer tax payments he must continue to do so for a period of at least 12 months.

B. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 19:1032 (August 1993), repromulgated LR 19:1340 (October 1993), amended LR 20:672 (June 1994), LR 23:448 (April 1997), amended by the Department of Revenue, Office of the Secretary, LR 25:

Interested persons may submit data, views, arguments, information, or comments on these proposed amendments in writing to Mike Pearson, Director, Corporation Income and Franchise Taxes Division, Department of Revenue, P.O. Box 201, Baton Rouge LA 70821 or by fax to (225) 922-0456. All written comments must be submitted by Tuesday, October 26, 1999.

A public hearing will be held on Wednesday, October 27, 1999, at 10:00 a.m. in the Department of Revenue Secretary's Conference Room, 330 North Ardenwood, Baton Rouge, Louisiana.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of these proposed amendments will have no effect on the functioning family.

4. The Effect on Family Earnings and Family Budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Brett Crawford
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Electronic Funds Transfer

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of these proposed amendments, would require electronic funds transfer if a taxpayer files tax returns more frequently than monthly and during the preceding 12-month period the average total payments exceed \$20,000 per month or a company files withholding tax returns and payments on behalf of other taxpayers and during the preceding 12-month period, the average total payments for all tax returns filed exceed \$20,000 per month, should have a minimal impact on the Department's costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of these amendments will result in \$86 million in withholding tax payments available to the state at least four days sooner. Assuming that the state will earn interest for four additional days at an annual rate of 4.92 percent (last year's average rate paid to agencies by the Treasurer's Office for funds on deposit based on the earnings rate for certificates of deposit), it is estimated that the state should earn \$46,000 in additional interest annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These amendments will affect withholding taxpayers and companies that file withholding tax returns on behalf of taxpayers. Depending on the taxpayer's or company's banking arrangements, electronic funds transfer payments may result in a small per transaction charge.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of these proposed amendments should have no effect on competition or employment.

Brett Crawford
Secretary
9909#009

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of the Secretary

Signature Alternatives; Electronic Filings
(LAC 61:I.4905)

Under the authority of R.S. 47:1520 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of the Secretary, proposes to amend LAC 61:I.4905 pertaining to tax return signature alternatives.

The Department administers several electronic filing programs for the purpose of reducing the number of paper return filings. Amendments are being proposed pertaining to the individual income tax telefile and online filing programs to allow the taxpayer's Personal Identification Number (PIN) to serve as an alternative to the signature requirement

for tax returns filed via the telephone and to provide for taxpayers who file their tax return online using a personal computer and a software provider/transmitter to sign and maintain the signature document for three years from December 31 of the year in which the taxes were due rather than to file it with the Department. In addition, in preparation for the beer tax return Internet filing program, provisions for signature alternatives for business tax returns filed using personal computers and software or an Internet provider/transmitter are being added.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 49. Tax Collection

§4905. Signature Alternatives; Electronic Filings

A. As authorized by R.S. 47:1520, the following alternate methods for signing, subscribing, or verifying tax returns, statements, or other documents filed by electronic means are allowed and shall have the same validity and consequence as the actual signature and/or written declaration.

B. Electronic Filing. The following alternatives, as determined by the secretary, are allowed in lieu of submitting a written signature/declaration for tax returns transmitted electronically by the taxpayer or the taxpayer's agent:

1. the taxpayer's signature document maintained by the electronic filer on file and secured for a period of three years from December 31 of the year in which the taxes were due;
2. the taxpayer's signature on a trading partner agreement with the department; or
3. an electronic signature as determined by the secretary.

C. Telefiling

1. Individual Income Tax Returns. For tax returns filed by the taxpayer using a touch-tone telephone to transmit return information, a Personal Identification Number (PIN) will serve as the signature alternative.

2. Sales Tax Returns. For tax returns filed by the taxpayer using a touch-tone telephone to transmit return information, a Personal Identification Number (PIN) will serve as the signature alternative.

D. On-Line Filing.

1. Individual Income Tax Returns. For tax returns filed by the taxpayer using a personal computer and software provider/transmitter, the signature document must be completed and maintained by the taxpayer as an alternative to the signed tax return. The signed form and state supporting documents must be maintained by the taxpayer for three years from December 31 of the year in which the taxes were due.

2. Business Tax Returns. For tax returns filed by the taxpayer using a personal computer and software or an Internet provider/transmitter, a signature alternative as determined by the secretary will serve in lieu of a written signature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 22:35 (January 1996), amended by the Department of Revenue, Office of the Secretary, LR 23:1167 (September 1997), LR 25:

Interested persons may submit data, views, or arguments, in writing to Joy Mullins, Director of the Personal Income Tax Division, Department of Revenue, P.O. Box 3863, Baton Rouge, LA 70821 or by fax to (225) 925-3853. All comments must be submitted by 4:30 p.m., Tuesday, October 26, 1999. A public hearing will be held on Wednesday, October 27, 1999, at 1:30 p.m. in the Department of Revenue Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Brett Crawford
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Signature Alternatives; Electronic Filing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department administers several electronic filing programs for the purpose of reducing the number of paper return filings. These proposed amendments pertaining to individual income tax returns filed via telephone or online using a personal computer and business tax returns filed online using a personal computer will result in an indeterminable cost savings to the Department based on the reduced paper

processing, handling, and storage of documents and elimination of the requirements to maintain voice recordings for telefiled tax returns.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of these proposed amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Taxpayers who file their tax returns electronically via on-line transmission using a personal computer should save the cost of mailing a signature document to the Department. There should be no effect on the costs for taxpayers who telefile their tax returns.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments should have no effect on competition or employment.

Brett Crawford
Secretary
9908#008

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

**Class A Day Care Centers—Reimbursement Rates
(LAC 67:V.2301)**

The Department of Social Services, Office of Community Services, proposes to increase the rate paid to Class A day care centers.

**Title 67
SOCIAL SERVICES**

**Part V. Office of Community Services
Subpart 4. Family Services**

Chapter 23. Daycare

§2301. Vendor Daycare Program

A. The Department of Social Services, Office of Community Services will only provide day care services to children who are at risk of abuse and/or neglect and for foster care reasons.

B. Class A Day Care Centers will be reimbursed for services at a rate of \$15.00 per day for full-time and \$1.87 per hour for part-time.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 11:689 (July 1985), amended by the Department of Social Services, Office of Community Services, LR 18:868 (August 1992), LR 25:

All interested persons may submit written comments through October 27, 1999 to: Shirley Goodwin, P.O. Box 3318, Baton Rouge, LA, 70821.

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Class A Daycare
Centers—Reimbursement Rates**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated increased cost in FY 99-00 is \$237,600 in FY 00/01 and FY 01/02 the increase is \$316,800.

The funding is from federal funds in the Social Services Block Grant (SSBG) and the Child Care Developmental Block Grant.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs to directly affected persons or non-governmental groups. There is a benefit to day care providers as they will receive an increased payment which is equal to the payment they will receive from the Office of Family Support and that is more equitable to the current market rate for day care services. There is no impact on workload or paperwork.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on revenue competition and employment.

Shirley B. Goodwin
Assistant Secretary
9909#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Child Care Assistance—Eligibility, Providers, and Payments
(LAC 67:III.5103, 5107, and 5109)**

The Department of Social Services, Office of Family Support proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 12, the Child Care Assistance Program (CCAP). Pursuant to 45 CFR, Part 98, the rule proposes to increase payable child care provider rates based on the most current market rate survey. Since the established state median income levels have also increased, the agency proposes the following changes to allow more persons to qualify for assistance during the funding period, including a 10 percent decrease in the maximum income standard for program eligibility, a decrease in the percentage of child care costs paid with Child Care Development Funds by the State, a requirement regarding the customary residence of the child, and the temporary absence of the child from the home/day care facility.

To better meet the child care needs of the participants, the agency proposes revisions to the income eligibility standard (sliding fee scale) based on the state median income and poverty levels which are adjusted annually.

The agency also proposes to strengthen the eligibility requirements of the program by revising the definition of employment and setting a minimum number of activity hours to better serve those who seek financial self-sufficiency and independence from public assistance.

Additionally, Act 1144 of the 1999 Regular Session of the Louisiana Legislature requires criminal background checks for all adult household members living in family child day care homes registered for participation in CCAP. It prohibits persons convicted of certain crimes from working or living in registered family child day care homes. It also requires all registered family child day care home providers to maintain current certification either in Infant/Child or Infant/Child/Adult Cardiopulmonary Resuscitation (CPR). The agency proposes, therefore, to include these requirements in its administrative code.

For management purposes, the agency proposes that the Child Care Assistance Program assume responsibility for the registration of all family child day care home providers previously registered by the DSS Bureau of Licensing

The full text of this notice of intent can be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

All interested persons may submit written comments through October 27, 1999 to: Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on October 27, 1999 at the Department of Social Services, A. Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, 70802, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? These changes will enhance the quality of child care available to those families who are seeking financial self-sufficiency and independence from public assistance, empowering the family to remain a cohesive family unit.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The family is assured freedom in selecting the child care provider of their choice, from a variety of child care provider types.

3. What effect will this have on the functioning of the family? The proposed rule change will have little impact on the functioning of the family, as Child Care Assistance will continue to provide quality child care at reduced rates to qualifying households.

4. What effect will this have on family earnings and family budget? The family budget will not be adversely

affected due to the continued affordability of child care provided by Child Care Assistance. 71percent of all participants pay no portion of their child care expense.

5. What effect will this have on the behavior and personal responsibility of children? As families are given freedom of choice in selecting a child care provider, they will be able to select a provider who most closely exhibits the traits the parents wish to be instilled in their children.

6. Is the family or local government able to perform the function as contained in this proposed rule? Child Care Assistance Program foresees no impact on the family due to the proposed rule change.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Child Care Assistance—Eligibility, Providers, and Payments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule results in an increase in state expenditures of \$1,902,152 for the federal Child Care and Development Fund for FY 99/00 and \$3,804,305 in subsequent years. The cost of rulemaking and policy revisions will be minimal to state government. There will be no cost to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The action proposes a 10 percent decrease in the maximum income standard for program eligibility. The agency currently offers assistance to low income families with countable income at or below 85 percent of the state median income. It is proposed that this be reduced to 75 percent. These changes will allow more persons to qualify for assistance throughout the funding period.

Family Child Day Care Home providers may incur additional expenses due to the implementation of Act 1144 of the 1999 Regular Session of the Louisiana Legislature which requires criminal background checks for all adult household members living in CCAP-registered Family Child Day Care Homes and requires current certification in child CPR.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Availability of federal funds will allow the agency to continue to accept more quality child care provider services which will increase employment and competition in the child care industry.

Vera W. Blakes
Assistant Secretary
9909#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Support Enforcement—Interstate Income Assignment;
Collection of Unpaid Child Support
(LAC 67:III.2523 and 2543)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Act 1003 of the 1999 Regular Session of the Louisiana Legislature which enacted R.S. 46:237 and to further facilitate the collection of child support, the agency proposes to implement regulations which authorize SES to enter into a cooperative endeavor with a private attorney retained by the custodial parent.

Act 561 of this legislative session repealed LA R.S. 46:236.4 regarding Interstate Income Assignment; therefore, §2523 will be repealed. (SES now utilizes the interstate income assignment provisions in the Uniform Interstate Family Support Act [UIFSA].)

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter F. Cooperation with Other States

§2523. Interstate Income Assignment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.4 and 45 CFR 303.100.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1083 (November 1985), repealed by the Department of Social Services, Office of Family Support, LR 25:

Subchapter L. Enforcement of Support Obligations

§2543. Cooperative Endeavor in the Collection of Unpaid Child Support

A. In cases in which SES is providing services and the client hires a private attorney, SES may enter into a cooperative agreement with the attorney. The purpose of the agreement is to provide the private attorney with information on the payor so that the attorney can assist the client in collecting child support. Information to be released is as follows:

1. social security number;
2. address;
3. driver's license number;
4. information from hunting licenses;
5. tax records; and
6. information from professional licenses.

B. SES may provide the private attorney a certification that the obligor is in arrears at least six months or that the whereabouts of the obligor have been unknown for longer than six months. Upon review by the court, the court may authorize DSS to enter into a cooperative agreement with the attorney for collecting unpaid child support.

C. Before SES enters into an agreement with the private attorney, the obligee must sign a statement that the attorney is providing services and that he/she wishes the agency to enter into a cooperative agreement. The client may also request that child support payments collected by SES be sent directly to the private attorney.

D. The agreement between SES and the attorney shall be in writing and shall provide for the following:

1. that information concerning the obligor shall be provided to the attorney to the extent allowed by state and federal laws and regulations;

2. that all child support payments collected on behalf of the client shall be sent directly to SES and not to the attorney; and

3. that information furnished to the attorney must be safeguarded and used exclusively for IV-D child support purposes.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

All interested persons may submit written comments through October 27, 1999, to: Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on October 27, 1999, at the Department of Social Services, A. Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, 70802, beginning at 9:00 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 (225) 342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? The proposed rule will not directly affect the stability of the family but may enhance the collection of child support. An improved financial situation should have a positive effect on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? A cooperative endeavor among SES and a private attorney could result in an increase in child support collections. If a significant increase occurs for a family, it could relieve financial stress and enhance that family's quality of life.

4. What effect will this have on family earnings and family budget? This rule will not directly affect the family earnings but could improve a family's financial situation if the rule results in the collection of child support.

5. What effect will this have on the behavior and personal responsibility of children? This rule should not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No. It is the function of SES and the legal community to act where individuals cannot.

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Support Enforcement—Interstate Income
Assignment; Collection of Unpaid Child Support**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule involves administrative procedures. The only cost of implementation is the minimal cost of printing policy revisions and publishing the rulemaking. Programming changes to automated systems will be required. These costs result in no additional expenditures for the state. No savings to the state is anticipated, and there are no anticipated costs or savings to local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections of the state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

If private attorneys are successful in obtaining child support payments, there would be costs to the obligor and benefits to the obligee, but no projection of amounts is possible. There is no cost or benefit to any nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9909#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Support Enforcement—Publication of Names
(LAC 67:III.2579 and 2580)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Act 519 of the 1999 Regular Session of the Louisiana Legislature which amended R.S. 46:236.6(F), the agency proposes to adopt rules governing the publication of the names of persons who are delinquent in the payment of child support orders.

**Title 67
SOCIAL SERVICES**

**Part III. Office of Family Support
Subpart 4. Support Enforcement Services
Chapter 25. Support Enforcement
Subchapter N. Publication of Names of Delinquent
Payors**

§2579. Publication of Names

A. SES will periodically provide a listing of noncustodial parents who are delinquent in child support payments for publication by the media. Publication may be at the expense of DSS or on a public service basis. The information will also be included on the DSS Homepage on the Internet. The entire list, or segments thereof, may be provided to the media or placed on the DSS Homepage.

B. Information to be released includes the name, date of birth, last known address, and the total amount of past-due support owed by the noncustodial parent. Persons to be listed are those who have made no payments within the last twelve months, excluding payments received through IRS, State tax, or lottery intercepts. Noncustodial parents who are incarcerated or who cannot pay because of a proven disability, will not be listed. If a noncustodial parent is listed on the DSS Homepage, the name will be removed only upon written request of the noncustodial parent, and proof that the arrears have been reduced to less than twelve months support.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 46:236.6(F).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

§2580. Publication of the "Most Wanted" Poster

A. SES will periodically publish a "Most Wanted" poster featuring ten or more noncustodial parents each of whom meets the following criteria:

1. owes a total of \$5,000 or more in past due support;
2. has not been making regular payments; and
3. his/her whereabouts are unknown or unverified.

B. Each Regional Office and Orleans and Jefferson District Attorney Offices will submit a list of possible noncustodial parents to be listed on the Most Wanted poster. SES State Office will review the submittals and will select those cases which are determined to be most appropriate for the Most Wanted poster. The selection process will consider the total amount of support owed, the payment history of each person, and the person's history of evading location and service of process.

C. Information to be provided in the "Most Wanted" poster will include the following:

1. the name, age, date of birth, occupation, and last known address(es) of the noncustodial parent;
2. a photograph of the noncustodial parent;
3. the total amount of support owed as calculated by Support Enforcement; and
4. the number of children to whom support is owed.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 46:236.6(F).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:

Family Impact Statement

In accordance with Section 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted the family impact statement regarding the rule proposed for adoption, repeal or amendment.

1. What effect will this rule have on the stability of the family? The proposed rule will not directly affect the stability of the family but may enhance the collection of child support. An improved financial situation should have a positive effect on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The publication of names could result in an increase in child support collections for some families. If a significant increase occurs for a family, it could relieve financial stress and enhance that family's quality of life.

4. What effect will this have on family earnings and family budget? This rule will not directly affect the family earnings but could improve a family's financial situation if the rule results in the collection of child support.

5. What effect will this have on the behavior and personal responsibility of children? This rule should not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? Based on state law, this rule allows state government to publish delinquent child support payor's names; neither the family nor local government could perform these actions.

All interested persons may submit written comments through October 27, 1999, to: Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on October 27, 1999, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, 70802, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Support Enforcement—Publication of
Names**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This estimated state cost is \$15,421 in FY 99-00 and \$30,842 per subsequent fiscal years. Additionally, there will be

implementation costs for policy changes and publication of the rule but these are minimal and are routinely included in the agency's annual budget.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Although advertising could result in increased child support payments (agency self-generated funds), no estimate of this increase can be projected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The publication may result in increased child support collections for the custodial parent. There will be no cost to any 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
9909#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

Personal Care Attendant Services
(LAC 48:I.7715)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to amend the *Louisiana Administrative Code*, Title 48, Part I.

This proposed rule is authorized by Louisiana Revised Statute 46:2683, as revised by Act 1135 during the 1999 Regular Session of the Louisiana Legislature. It increases the annual licensure fee for personal care attendant service agencies to \$200.00. This change will become effective for currently licensed providers whose anniversary month is January 2000 and thereafter.

Section 7715, pertaining to fees for the licensure of personal care attendant services, is being amended.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 77. Personal Care Attendant Services

§7715. Licensure Fees

An application fee of \$25 must be submitted with each application. This application fee will be applied toward the annual license fee if a license is issued. There shall be an annual licensure fee of \$200 for each personal care attendant service agency, which must be paid before a license is issued or renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2683.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 25:

A public hearing on the proposed rule will be held on Tuesday, October 26, 1999 at 9 a.m. at the Department of

Social Services, Bureau of Licensing, 2751 Wooddale Boulevard, Suite 330, Baton Rouge, LA 70806. 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 (225) 342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? This proposed rule to increase the licensure fee charged of personal care attendant providers will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This rule is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no affect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? No affect on the behavior and personal responsibility of children is foreseen.

6. Is the family or local government able to perform the function as contained in this proposed rule? The family or local government is not able to perform the function contained in this proposed rule.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Personal Care Attendant Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs to state or local governmental units associated with this proposed rule. It will increase the annual licensing fees charged of personal care attendant service agencies. Act 1135, passed during the 1999 Regular Session of the Louisiana Legislature, authorizes the Secretary of the Department of Social Services to set and collect fees for the licensure of these programs, provided the license fees do not exceed the cost of licensure or the specified maximum amount of \$200.00.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

In accordance with the authority granted by Act 1135, licensing fees for personal care attendant service agencies will be increased to \$200.00. There will be an estimated increase of \$28,950 in Agency Self-Generated revenues during FY 1999/00. With anticipated growth in the number of providers, a revenue increase of \$65,550 is projected for FY 2000/01, and an increase of \$72,950 is projected for FY 2001/02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Licensure fees charged of personal care attendant service agencies will be increased from \$50.00 to \$200.00. Providers that serve adults only have been exempted from payment of a licensure fee in the past, but will now be required to pay the licensing fee of \$200.00 each year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

With the increased number of personal care attendant providers that is projected, there may be a resulting increase in employment opportunities in this field.

William M. Hightower
Deputy Secretary
9909#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of the Secretary Bureau of Licensing

Respite Care (LAC 48:I.8107)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to amend the *Louisiana Administrative Code*, Title 48, Part I.

This proposed rule is authorized by Louisiana Revised Statute 46:2683, as revised by Act 1135 during the 1999 Regular Session of the Louisiana Legislature. It increases the annual licensure fees for respite care services agencies and facilities. The increased fees will become effective for currently licensed providers whose anniversary month is January 2000 and thereafter.

Section 8107, pertaining to fees for the licensure of respite care services, is being amended.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 81. Respite Care

8107. Licensure Fees

An application fee of \$25 must be submitted with each application. This application fee will be applied toward the annual license fee if a license is issued. There shall be an annual licensure fee of \$200 dollars for each agency providing in-home respite care; \$400 for each out-of-home respite care facility with no fewer than four nor more than six beds; \$600 for each out-of-home respite care facility with no fewer than seven nor more than 15 beds; and \$800 for each out-of-home respite care facility with 16 or more beds. Separate fees shall be paid by those providers that operate both in-home and out-of-home respite care services programs. All fees must be paid before a license is issued or renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2683.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of

Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 25:

A public hearing on the proposed rule will be held on Tuesday, October 26, 1999 at 9 a.m. at the Department of Social Services, Bureau of Licensing, 2751 Wooddale Boulevard, Suite 330, Baton Rouge, LA 70806. 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 (225) 342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? This proposed rule to increase the licensure fee charged of respite care providers will have no affect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This rule is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no affect on family earnings and family budget.

5. What effect will this have on behavior and personal responsibility of children? No affect on the behavior and personal responsibility of children is foreseen.

6. Is the family or local government able to perform the function as contained in this proposed rule? The family or local government is not able to perform the function contained in this proposed rule.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Respite Care

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs to state or local governmental units associated with this proposed rule. It will increase the annual licensing fees charged of respite care agencies and facilities. Act 1135, passed during the 1999 Regular Session of the Louisiana Legislature, authorizes the Secretary of the Department of Social Services to set and collect fees for the licensure of these programs, provided the license fees do not exceed the cost of licensure or the specified maximum amounts.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

In accordance with the authority granted by Act 1135, licensing fees will be increased to: \$200 for in-home respite care agencies; \$400 for out-of-home respite care facilities with 4-6 beds; \$600 for out-of-home respite care facilities with 7-15 beds; \$800 for out-of-home respite care facilities with 16 or more beds. There will be an estimated increase of \$25,050 in

Agency Self-Generated revenues during FY 1999/00. With anticipated growth in the number of in-home respite care agencies, a revenue increase of \$51,600 is projected for FY 2000/01, and an increase of \$57,600 is projected for FY 2001/02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Licensure fees charged of respite care agencies and facilities will be increased as follows: fees for in-home respite care programs will increase \$50.00 to \$200.00; fees for out-of-home respite care facilities with 4-6 beds will increase from \$100.00 to \$400.00; fees for out-of-home respite care facilities with 7-15 beds will increase from \$200.00 to \$600.00; fees for out-of-home respite care facilities with 16 or more beds will increase from \$300.00 to \$800.00. Providers that serve adults only have been exempted from payment of a licensure fee in the past, but will now be required to pay the appropriate licensing fee each year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

With the increased number of respite care providers that is projected, there may be a resulting increase in employment opportunities in this field.

William M. Hightower
Deputy Secretary
9909#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of the Secretary Bureau of Licensing

Supervised Independent Living
(LAC 48:I.8301)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to amend the *Louisiana Administrative Code*, Title 48, Part I.

This proposed rule is authorized by Louisiana Revised Statute 46:2683, as revised by Act 1135 during the 1999 Regular Session of the Louisiana Legislature. It increases the annual licensure fee for supervised independent living programs to \$200.00. This change will become effective for currently licensed providers whose anniversary month is January 2000 and thereafter.

Section 8301, pertaining to the application procedure, licensure fees, reapplication, refusal, revocation and fair hearing, and licensing inspections for supervised independent living programs, is being amended.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 83. Supervised Independent Living

§8301. Application Procedure, Licensure Fees,

Reapplication, Refusal, Revocation and Fair

Hearing, and Licensing Inspections

A. The applicant shall submit an application for licensure on a form supplied by the Bureau of Licensing, to the Department of Social Services, Bureau of Licensing. Applicants will not receive a license until all applicable

requirements have been met. A provider may not begin operation until a license has been issued.

B. An application fee of \$25 must be submitted with each application. This application fee will be applied toward the annual license fee if a license is issued. There shall be an annual licensure fee of \$200 for each supervised independent living program. All fees must be paid before a license is issued or renewed.

C. A provider with a change in ownership or any substantial changes in the services offered must reapply for a license. In the event of a change of ownership or location, the old license is voided automatically. A license may not be transferred to any location or person other than that specified in the license application.

D. A license may be revoked or refused if applicable licensing requirements, as determined by the Bureau of Licensing, have not been met. Licensing decisions are subject to appeal and fair hearing, in accordance with state law.

E. Licensing inspections are usually conducted annually, but may be conducted at any time. No advance notice is given. Licensing staff must be given access to all areas in the facility and all relevant records, including staff and client records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2683.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 25:

A public hearing on the proposed rule will be held on Tuesday, October 26, 1999 at 9 a.m. at the Department of Social Services, Bureau of Licensing, 2751 Wooddale Boulevard, Suite 330, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said public 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 (225) 342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? This proposed rule to increase the licensure fee charged of supervised independent living providers will have no affect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This rule is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no affect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? No effect on the behavior and personal responsibility of children is foreseen.

6. Is the family or local government able to perform the function as contained in this proposed rule? The family or

local government is not able to perform the function contained in this proposed rule.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Supervised Independent Living

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs to state or local governmental units associated with this proposed rule. It will increase the annual licensing fees charged of supervised independent living programs. Act 1135, passed during the 1999 Regular Session of the Louisiana Legislature, authorizes the Secretary of the Department of Social Services to set and collect fees for the licensure of these programs, provided the license fees do not exceed the cost of licensure or the specified maximum amount of \$200.00.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

In accordance with the authority granted by Act 1135, licensing fees for supervised independent living programs will be increased to \$200.00. There will be an estimated increase of \$20,700 in Agency Self-Generated revenues during FY 1999/00. With anticipated growth in the number of providers, a revenue increase of \$46,200 is projected for FY 1999/00. With anticipated growth in the number of providers, a revenue increase of \$46,200 is projected for FY 2000/01, and an increase of \$51,000 is projected for FY 2001/02.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Licensure fees charged of supervised independent living programs will be increased from \$50.00 to \$200.00. Programs that serve adults only have been exempted from payment of a licensure fee in the past, but will now be required to pay the licensing fee of \$200.00 each year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

With the increased number of supervised independent living providers that is projected, there may be a resulting increase in employment opportunities in this field.

William M. Hightower
Deputy Secretary
9909#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of the Secretary Crescent City Connection Division

Bridge Toll—Crescent City Connection
Exemptions—Law Enforcement Personnel
(LAC 70:I.513)

The Department of Transportation and Development, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., gives notice that rulemaking procedures have been instituted to amend LAC 70:I.513 to include enforcement division agents of the Louisiana Department of Wildlife and Fisheries within

the definition of law enforcement personnel for purposes of toll exemptions. This proposed rule amendment has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 70

TRANSPORTATION AND DEVELOPMENT

Part I. Office of the General Counsel

Chapter 5. Tolls

§513. Crescent City Connection Exemptions—Law Enforcement Personnel

A. Free passage across the Crescent City Connection, Sunshine Bridge, and the ferries known as Algiers/Canal Street, Gretna/Jackson Avenue, Lower Algiers/Chalmette shall be granted to all law enforcement personnel who are employed on a full-time basis and have law enforcement agency equipment.

B. Law enforcement agency for purposes of R.S. 40:1392 shall mean any agency of the State or its political subdivisions and the Federal Government, who are responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this State or similar federal laws and who are employed in this State. Officers who serve in a voluntary capacity or as honorary officers are not included.

C. Agencies which meet the above criteria shall include the Louisiana State Police, enforcement division agents of the Louisiana Department of Wildlife and Fisheries, sheriff's departments of the parishes of this state, municipal police departments, levee board police departments, port police departments, and Federal Bureau of Investigation exclusively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq., and R.S. 40:1392.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 23:84 (January 1997), amended LR 25:

Interested persons may comment on this proposed Rule Amendment to Mr. Alan J. LeVasseur, P.O. Box 6297, New Orleans, Louisiana, 70174.

Alan J. LeVasseur
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bridge Toll—Crescent City Connection Exemptions—Law Enforcement Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will not be any implementation costs to the State. Toll tags will be issued to eligible enforcement division agents of the Department of Wildlife and Fisheries for free passage and the Crescent City Connection Division currently budgets the costs of toll tags from self-generated agency funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Crescent City Connection currently provides for free passage by eligible law enforcement personnel, and the proposed Rule Amendment would extend free passage to the enforcement division agents of the Department of Wildlife and Fisheries. To the extent that enforcement division agents of the Department of Wildlife and Fisheries utilize the right of free passage extended by the proposed Rule Amendment, toll

revenues to the Crescent City Connection will decrease. However, it is not anticipated that any such decrease in toll revenue would be material.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The expanded eligibility requirements for free passage could result in cost savings to the enforcement division agents of the Department of Wildlife and Fisheries who utilize the facilities of the Crescent City Connection Division.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Kenneth E. Pickering
General Counsel
9909#035

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Weights and Measures**

**Minimum Standards for Reflective Sign Sheeting
(LAC 73:III.301)**

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 amend Section 301 of the rule entitled Minimum Standards for Reflectivity of Work-Site Materials, in accordance with R. S. 48:35. This proposed rule has no known impact on family formation, stability, and autonomy as described in R. S. 49:972.

Title 73

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

Part III. Weights and Measures

Chapter 3. Minimum Standards for Reflectivity of Work-Site Materials

§301. Minimum Standards for Reflective Sign Sheeting

A. Reflective sheeting shall be one of the following types as specified on the plans and conforming to ASTM D 4956 except as modified herein. The sheeting shall be an approved product listed in QPL 13.

1. Type I - A medium-intensity retroreflective sheeting referred to as "engineering grade" and typically enclosed lens glass-bead sheeting.

2. Type II - A medium-high-intensity retroreflective sheeting sometimes referred to as "super engineering grade" and typically enclosed lens glass-bead sheeting.

3. Type III - A high intensity retroreflective sheeting, that is typically encapsulated glass-bead retroreflective material.

4. Type VI - An elastomeric-high-intensity retroreflective sheeting without adhesive. This sheeting is typically a vinyl microprismatic retroreflective material.

5. DOTD Type VII - A super-intensity retroreflective sheeting having high retroreflectivity values at wide entrance angles of +45° and +60°. This sheeting is typically an unmetallized microprismatic retroreflective element material.

6. DOTD Type VIII - A super-intensity retroreflective sheeting having optimized performance over a broad range of observation angles. This sheeting is typically an unmetallized microprismatic retroreflective element material.

B. Adhesive Classes. The adhesive required for retroreflective sheeting shall be Class 1 (pressure sensitive) or Class 2 (heat activated) as specified in ASTM D 4956.

C. Identification Marks. Type II sheeting shall be distinguished by integral identification marks that cannot be removed or affected by physical or chemical methods without causing damage to the sheeting. The markings shall be inconspicuously placed on 12-inch centers and shall be visible from a distance of not more than 3 feet.

D. Alternate Sheeting Types

1. DOTD Type VII - Minimum Coefficient of Retroreflection shall be as specified in Table 1015-1. Luminance Factor shall be as specified in Table 1015-2.

Table 1015-1 DOTD Type VII Sheeting^a

Observation Angle	Entrance Angle	White	Yellow	Red	Blue	Green	Orange	Flour Orange
0.2°	-4°	800	660	21	43	80	300	200
				5				
0.2°	+30°	400	340	10	20	35	150	120
				0				
0.2°	+45°	145	85	25	7.6	12	50	50
0.2°	+60°	35	23	6.6	1.0	2.0	10	10
0.5°	-4°	200	160	45	9.8	20	100	80
0.5°	+30°	100	85	26	5.0	10	50	50
0.5°	+45°	75	60	18	2.8	6.0	20	20
0.5°	+60°	30	20	6.4	2.0	2.0	10	6.0

^aMinimum Coefficient of Retroreflection (R_A)(cdlx⁻¹m⁻²)

TABLE 1015-2 LUMINANCE FACTOR (Y%) (DAYTIME LUMINANCE)

Color	Minimum	Maximum
White	40	--
Yellow	24	45
Red	3.0	15
Blue	1.0	10
Green	3.0	9.0
Orange	12	30
Florescent Orange	30	--

2. DOTD Type VIII - Minimum Coefficient of Retroreflection shall be as specified in Table 1015-3. Luminance Factor shall be as specified in Table 1015-2.

TABLE 1015-3 DOTD TYPE VIII SHEETING^A

Observation Angle	Entrance Angle	Rotation Angle	White	Yellow	Red	Blue	Green
0.20°	-4°	0°	430	350	70	20	45
0.33°	-4°	0°	300	250	53	15	33
0.50°	-4°	0°	250	200	46	10	25
1.00°	-4°	0°	80	65	14	4.0	10
0.20°	30°	0°	235	190	39	11	24
0.33°	30°	0°	150	130	25	7.0	18
0.50°	30°	0°	170	140	25	7.0	19
1.00°	30°	0°	50	40	11	2.5	5.0
0.20°	40°	90°	150	125	25	6.0	15
0.33°	40°	90°	85	75	14	4.0	8.0
0.50°	40°	90°	35	30	4.0	1.5	3.5
1.00°	40°	90°	20	13	5.0	0.7	2.0

^AMinimum Coefficient of Retroreflection (R_A)(cdlx⁻¹m⁻²)

E. Accelerated Weathering. Reflective sheeting, when processed, applied and cleaned in accordance with the

manufacturer's recommendations shall perform in accordance with the accelerated weathering standards in Table 1015-4a.

TABLE 1015-4a Accelerated Weathering Standards

Type	Retroreflectivity ¹				Colorfastness ³	
	Orange		All colors, except orange		Orange	All colors, except orange
I	Not used		2 years	50 ⁴	Not used	2 Years
II	1 Year	70 ⁵	Not used		1 Year	3 Years
III	1 Year	70 ⁶	3 Years	80 ⁶	1 Year	3 Years
III (for drums)	1 Year	70 ⁶	1 Year	80 ⁶	1 Year	1 Year
VI	1/2 Year	50	1/2 Year	50	1/2 Year	1/2 Year
DOTD Type VII	1 Year	50 ⁷	Not Used		1 Year	Not used
DOTD Type VIII	Not used		3 Years	80 ⁸	Not used	3 Years

¹Percent retained retroreflectivity of referenced table after the outdoor test exposure time specified.

²At an angle of 45° from the horizontal and facing south in accordance with ASTM G7.

³Colors shall conform to the color specification limits of ASTM D4956 after the outdoor test exposure time specified.

⁴ASTM D4956, Table 1.

⁵ASTM D4956, Table 3.

⁶ASTM D4956, Table 4.

⁷DOTD Table 1015-1.

⁸DOTD Table 1015-3.

F. Performance. Reflective sheeting for signs, when processed, applied and cleaned in accordance with the manufacturer's recommendations shall perform outdoors in accordance with the performance standards in Table 1015-4b.

TABLE 1015-4b Performance Standards of Installed Sign Sheeting

Type	Retroreflectivity ¹ - Durability ²			Colorfastness ³
	Orange		All colors, except orange	
I	Not used		7 years 40 ⁴	3 Years
II	3 Years	70 ⁵	Not used	
III	3 Years	70 ⁶	10 Years	70 ⁶
DOTD Type VII	3 Years	50 ⁷	Not Used	
DOTD Type VIII	Not used		7 Years	50 ⁸

¹Percent retained retroreflectivity of referenced table after installation and the field exposure time specified.

²All sheeting shall maintain its structural integrity, adhesion and functionality after installation and the field exposure time specified.

³All colors shall conform to the color specification limits of ASTM D4956 after installation and the field exposure time specified.

⁴ASTM D4956, Table 1.

⁵ASTM D4956, Table 3.

⁶ASTM D4956, Table 4.

⁷DOTD Table 1015-1.

⁸DOTD Table 1015-3.

G. Sheeting Guaranty. The contractor shall provide the Department with a guaranty from the sheeting manufacturer stating that if the retroreflective sheeting fails to conform to

the performance requirements of this subsection, the sheeting manufacturer shall do the following:

TABLE 1015-4c Manufacturer's Guaranty

Type	Manufacturer shall restore the sign face in field location to its original effectiveness at no cost to the Department if failure occurs during the time period ¹ specified below.		Manufacturer shall furnish the sheeting required to restore the sign face to its original effectiveness at no cost to the Department if failure occurs during the time period ¹ specified below.
	Orange	All colors, except orange	All colors, except orange
I	Not used	<5 years	5-7 years
II	<3 years	<5 years	5-10 years
III	<3 years	<7 years	7-10 years
DOTD Type VII	<3 years	Not used	Not used
DOTD Type VIII	Not used	<5 years	5-7 years

¹From the date of sign installation.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measures LR 24:703(April 1998), amended LR 25:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of the Notice of Intent to: Henry G. Reed, P.E., Specifications and Standards Engineer, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, LA 70804, Telephone (225)379-1439.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Minimum Standards for Reflective
Sign Sheeting**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no implementation costs to State or local governmental units. These reflectivity standards have been in effect for many years. This amendment to existing rules updates the standards required by the Department to reflect current industry standards.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of State or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no cost or economic benefit to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition and employment.

Kam K. Movassaghi, Ph.D., P.E.
Secretary
9909#077

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the State
Employees' Retirement System**

Minimum Distributions from DROP (LAC 58:I.2713)

Under the authority of LSA-R.S. 11:515 and in accordance with LSA-R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees Retirement System ("LASERS") advertises its intent to amend LAC 58:I.2711 and 2713. The proposed amendment to the rules changes the minimum distribution requirements from the Deferred Retirement Option Plan to comply with the Internal Revenue Code. The proposed amendments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

**Title 58
RETIREMENT**

Part I. State Employees' Retirement

Chapter 27. DROP Program

Subchapter C. Withdrawal

§2711. Method of Withdrawal

A. When a participant in the Deferred Retirement Option Plan terminates state employment, the amount accumulated in the participant's DROP account may be withdrawn in any of the following methods:

1. Lump Sum Withdrawal:

c. if a participant dies and the designated beneficiary is not entitled to a monthly retirement benefit, the DROP account must be withdrawn within ninety (90) days after notification of the death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:

§2713. Time for Disbursement

A. The DROP account must be totally disbursed within the expected lifetime of the participant in accordance with federal laws. The expected lifetime is determined based on the age of the participant on the date of termination. All funds from the DROP account must be withdrawn in accordance with the following schedule:

Age at Termination	Minimum Number of Years for Payout or Recovery
55 or under	30
55 and one day to 60	25.833
60 and one day to 65	21.667
65 and one day to 70	17.5
70 and one day and older	13.3

NOTICE OF INTENT
Department of Treasury
Board of Trustees of the State
Employees' Retirement System

Purchases of Service Credit
(LAC 58:I.1701, 1703, 1707 and 1709)

B. Disbursements from the DROP accounts shall be made on the sixth day of each month; if the sixth is a weekend or holiday, the disbursement shall be made on the following workday.

C. When a retiree reaches age 70½, mandatory monthly distributions shall begin in accordance with IRS regulations. The amount of the monthly distributions will be recalculated annually. The mandatory distribution is based on the retiree's age and DROP account balance using the table above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:

Interested persons may submit written opinions, suggestions or data to Kevin P. Torres, General Counsel, Louisiana State Employees Retirement System, 8401 United Plaza Boulevard, Room 145, Baton Rouge, Louisiana 70809 through October 30, 1999.

Glenda Chambers
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Minimum Distributions from DROP**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation cost to the state or local governmental units are anticipated because of the proposed rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These regulations will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no economic impact on those persons who are required to withdraw their DROP funds in accordance with the Internal Revenue Code, and it will save them a 50% excise tax penalty for not making the withdrawal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment.

Glenda Chambers
Executive Director
9909#002

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Under the authority of LSA-R.S. 11:515 and in accordance with LSA-R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to amend LAC 58:I.1701, 1703, and to adopt LAC 58:I.1707 and 1709. The proposed amendments to the rules change the provisions for the purchase of service credit by reinstated employees, and add provisions for partial purchase of service credit. The proposed amendments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

**Title 58
RETIREMENT**

**Part I. Louisiana State Employees' Retirement System
Chapter 17. Purchases of Service Credit**

§1701. Purchases of Service by Reinstated Employees

A. When an employee is reinstated to a position in state government by the Department of Civil Service or a court of law, the employee is entitled to receive retirement service credit for the period of time that is reinstated provided payment of employee and employer contributions, plus interest, is made to the retirement system within sixty (60) days of the reinstatement.

B. If reinstated, the employee shall pay an amount equal to the current employee's contributions based on the earned compensation for the period of time that was reinstated. The employing agency shall pay the employer contributions that would have been due plus compound interest at the actuarial valuation rate for all contributions payable from the date the contribution was due until paid.

C. When a reinstated employee is entitled to back pay from the employing agency, the agency shall remit the employer and employee's contributions that would have been due if the employee had been employed during that time, plus interest. The agency shall also provide LASERS with a report of earnings on a monthly basis for the period for which the individual was reinstated.

D. If a member has received a refund of contributions after termination, he must repay the refund prior to having the service credit reinstated. The repayment of the refund must be made within sixty (60) days of reinstatement. Failure to timely pay the refund by the employee shall result in appropriate action being taken by the system to recoup these funds. However, any funds recouped after sixty (60) days of reinstatement shall be treated as a purchase of service credit and not a reinstatement of employment.

E. Any costs to the retirement system associated with these procedures shall be paid by the employing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:

§1703. Effect of Reinstatement

A. Employees reinstated into state government shall be entitled to purchase service credit as provided in this Chapter, and the employee shall be treated as if he was a member during this period of purchased service credit, except that the reinstated employee will not be entitled to partial repurchase provisions for the service credit that is reinstated through legal action.

B. The reinstated employee's original hire date shall be used for retirement purposes, and not the date of reinstatement, to the extent that the employee has repurchased the necessary service credit if the employee had received a refund of contributions. If the refund is received after sixty (60) days of reinstatement, the payment shall be treated as a payment of a refund and the date of hire shall be the date of reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:

§1707. Repayment of Refund of Contributions

A. A member who received a refund or employee contributions may repay the refund after the member has returned to state service and contributed to the system for a minimum of eighteen months, by paying to the system the employee contribution refund plus interest compounded annually at the actuarial valuation rate for all contributions payable from the date the refund was issued until paid in one lump sum, or by partial repayment in accordance with the following section.

B. Repayment of refunds must be completed prior to retirement or beginning participation in DROP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 25:

§1709. Partial Repayment of Refund of Contributions

A. If a member elects to repay part of a refund, he must repay the contributions for the most recent service credit first. For example, if a member received a refund for service from January 1, 1991, through December 31, 1993, and elects to repay one year of service, he/she must repay the contributions for 1993 first.

B. Partial payments must be made in increments based on service within a calendar year with the most recent year(s) repaid first. Example: A member worked from June 1, 1990 through April 30, 1993 then received a refund. The refund may be repaid in the following order:

1. January 1, 1993 through April 30, 1993;
2. January 1 through December 31, 1992;
3. January 1 through December 31, 1991; then
4. June 1 through December 31, 1990.

C. If a member has both full time and part time service credit that was refunded, the years of full time service must be repaid first. When there is both full time and part time

service within the calendar year(s), LASERS shall have the authority to determine the calendar year of service credit that must be repaid first. As a general rule, the year(s) with the most full time service must be repaid before the year(s) with more part time service.

D. Upon receipt of the partial payment, the service credit for the calendar year repaid will be restored to the member.

E. A member may receive three invoices in a 12-month period at no cost. Each additional invoice within the 12-month period will cost \$75 each.

F. Interest at the actuarial rate will be calculated from the date of the refund was issued to the date of the repayment. Interest will be compounded on an annual basis.

G. The partial repayment must be made in a single payment.

H. For the purposes of R.S. 11:144.1 or 444, partial repayment of refunds is prohibited.

I. Partial repayments will be allowed until July 1, 2003, unless R.S. 11:537(F) is amended to provide otherwise. If a partial payment was made prior to July 1, 2003, and the authority for partial repayment is not continued by statute, the member can only repay the remaining portion of any refund in a lump sum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 25:

Interested persons may submit written opinions, suggestions or data to Kevin P. Torres, General Counsel, Louisiana State Employees' Retirement System, 8401 United Plaza Boulevard, Room 145, Baton Rouge, Louisiana 70809 through October 30, 1999.

Glenda Chambers
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Purchases of Service Credit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation cost to the state or local governmental units are anticipated because of the proposed rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These regulations will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only economic impact would be on those persons who are eligible to purchase service credit. These people will be able to purchase refunded service credit in smaller increments, as opposed to a lump sum.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected impact on competition and employment by the enactment of these rules.

Glenda Chambers
Executive Director
9909#001

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Bass Regulations—Lake Bartholomew (LAC 76:VII.149)

The Wildlife and Fisheries Commission hereby advertises its intent to amend the following rule on black bass (*Micropterus spp.*) on Lake Bartholomew, located in Morehouse and Ouachita Parishes, Louisiana.

Title 76

Wildlife and Fisheries

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§149. Black Bass Regulations-Daily Take and Size Limits

A. The Wildlife and Fisheries Commission establishes a statewide daily take (creel limit) of 10 fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

B. In addition, the Commission establishes special size and daily take regulations for black bass on the following water bodies:

1. Concordia Lake (Concordia Parish), and Caney Creek Reservoir (Jackson Parish):

a. Size limit: 15 inch - 19 inch slot. A 15 - 19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive.

b. Daily take: eight fish of which no more than two fish may exceed 19 inches maximum total length.*

c. Possession limit:

- i. On water - Same as daily take.
- ii. Off water - Twice the daily take.

2. Black Bayou Lake (Bossier Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), John K. Kelly-Grand Bayou Reservoir (Red River Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

a. Size Limit: 14 inch - 17 inch slot. A 14 - 17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

b. Daily Take: eight fish of which no more than four fish may exceed 17 inches maximum total length.*

c. Possession limit:

- i. On water - Same as daily take.
- ii. Off water - Twice the daily take.

3. False River (Pointe Coupee Parish)

a. Size limit: 14 inch minimum size limit.

b. Daily Take: 5 fish.

c. Possession limit:

- i. On water - Same as daily take.
- ii. Off water - Twice the daily take.

*Maximum total length - The distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C), R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 25:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed rule to Mike Wood, Biologist Supervisor, Inland Fisheries Division, Department of Wildlife and Fisheries, 368 Century Drive, Monroe, LA 71211, no later than 4:30 p.m., Monday, November 8, 1999.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Bill A. Busbice, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Black Bass Regulations—Lake Bartholomew

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff. Ouachita and Morehouse Parish Enforcement Agents are presently employed to patrol Lake Bartholomew as part of their duties.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of State and Local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Sport fishermen who fish in Lake Bartholomew will be affected by the proposed action. They will not have to release black bass between 14 and 17 inches in total length. The proposed rule will have no effect on costs to sport fishermen at Lake Bartholomew.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment in the private or public sector.

James L. Patton
Undersecretary
9909#027

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Freshwater Mullet Harvest
(LAC 76:VII.193)

The Wildlife and Fisheries Commission hereby advertises its intent to adopt the following rule on the harvest of mullet.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§193. Freshwater Harvest of Mullet

A. Recreational Limits. The daily take and possession limit for the recreational harvest of mullet shall be 100 pounds per person per day. No person shall take or possess mullet in excess of 100 pounds per day, except for legally licensed commercial fishermen. No person shall sell, barter, trade or exchange or attempt to sell, barter, trade or exchange mullet taken or possessed recreationally.

B. Commercial; freshwater areas. The following provisions govern the commercial taking of mullet with hoop nets in the freshwater areas of the state.

1. Mullet caught in the freshwater areas of the state shall not be possessed by commercial fishermen in the saltwater areas of the state.

2. There shall be no lead nets on hoop nets used for the fishing of mullet.

3. No person shall take or possess mullet from hoop nets between the hours of official sunset and official sunrise.

4. No mullet shall be possessed on the water in the freshwater areas of the state between the hours of official sunset and official sunrise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.1.A(1) and R.S. 56:333.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the

preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments of the proposed rule to Mr. Bennie Fontenot, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898, no later than 4:30 p.m., Monday, November 8, 1999.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Bill A. Busbice, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Freshwater Harvest of Mullet**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using existing staff. Enforcement agents presently enforce commercial fishing regulations as part of their duties.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule should have no effect on revenue collections of State and Local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The 1999 Legislature legalized the commercial taking of mullet in freshwater areas with hoop nets. This action should benefit commercial hoop net fishers since they will be able to sell the mullet they catch. The proposed rule establishes regulations that commercial fishers will have to follow, but should have no affect on costs or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition and employment in the private or public sector.

James L. Patton
Undersecretary
9909#026

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Potpourri

POTPOURRI

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

EPA Approval of the Repeal of the State Clean-Fuel Fleet Program SIP and Substitution of Equivalent Surplus Emission Reduction Credits

The Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division submitted on April 1, 1999, a State Implementation Plan (SIP) revision to the Environmental Protection Agency (EPA), Region 6. The SIP contained provisions for a repeal of the state Clean-Fuel Fleet (CFF) Program SIP and substitution of Equivalent Surplus Emission Reduction Credits. On July 19, 1999, the EPA published a direct final rule approving Louisiana's SIP revision because it adequately demonstrates that the Louisiana CFF substitute program achieves equivalent or better long term reductions in emissions of ozone producing and toxic air pollutants than the federal CFF program. This federal rule will become effective on September 17, 1999, without further notice. The substitution will be applicable in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. The Department will follow with rulemaking to repeal the state Clean-Fuel Fleet Program.

James H. Brent, Ph.D.
Assistant Secretary

9909#080

POTPOURRI

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

Women, Infants, and Children (WIC) State Plan—1999-2000

In accordance with Public Laws 99-500 and 99-591 the Louisiana Special Nutrition Program for Women, Infants and Children (WIC) is soliciting comments from the general public on the WIC Program's State Plan for 1999-2000. The plan describes in detail the goals and the planned activities of the WIC Program for the next year. Interested persons may find copies of the State Plan at the Central Nutrition/WIC Office (address below) or they may apply directly to the Nutrition/WIC Office for copies of the plan at 25 cents per page. Interested individuals should submit their requests for copies or their comments on the Plan to the following address:

State of Louisiana
Department of Health and Hospitals

Office of Public Health
Nutrition Section - Room 406
Attn: State Plan
P.O. Box 60630
New Orleans, Louisiana 70160

Additional information may be gathered by contacting Henry Klimek (504) 568-5065.

Pamela P. McCandless, M.P.H.
Administrator

9909#086

POTPOURRI

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

Private Intermediate Care Facilities-MR

Effective for dates of service July 1, 1999 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has established the following reimbursement rates for private intermediate care facilities for the mentally retarded:

Level of Care	1-8 Beds Per Diem Rate	1-8 Beds Monthly Rate	9-32 Beds Per Diem Rate	9-32 Beds Monthly Rate	33+ Beds Per Diem Rate	33+ Beds Monthly Rate
2	\$116.62	\$3,547.19	\$94.72	\$2,881.07	\$84.22	\$2,561.69
3	\$125.86	\$3,828.24	\$102.05	\$3,104.02	\$90.64	\$2,756.97
4	\$130.61	\$3,972.72	\$110.02	\$3,346.44	\$97.62	\$2,969.28
5	\$137.20	\$4,173.17	\$118.68	\$3,609.85	\$105.21	\$3,200.14
6	\$140.51	\$4,273.85	\$128.10	\$3,896.38	\$122.98	\$3,740.64
7	\$153.86	\$4,679.91	\$151.31	\$4,602.35	\$131.99	\$4,014.70

It should be noted that the above rates include a provider fee of \$10.39. If additional information is required, please contact John Marchand at (225) 342-6116.

David W. Hood
Secretary

9909#087

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well No.	Serial No.
Calyx Exploration and Production	Anse La Butte	J C Nickerson	002	027935
Kenneth Crawford	Richland	Baker	002	166724
Discus Oil Corporation	Arkana	CV RB SU10; Rinsland Estate	001	169520
Discus Oil Corporation	Arkana	CV RB SU 12;W T Davis C	001	176101
Glen-Wells, Inc.	Little Creek	A T Dean	002	027430
Glen-Wells, Inc.	Little Creek	A T Dean A SWD	002	032767
Glen-Wells, Inc.	Little Creek	WX B RA SU41;A T Dean B	003	174896
O. Kenneth Hickman	Caddo Pine Island	Markham	001	034571
J E Holmes	Joyce	Tremont Lbr Co	1-C	039345
J E Holmes	Joyce	Tremont Lbr Co	C-1-A	051914
Alvin Johnson	Wildcat	Elmo P Lee	001	054492
Jones & Mitchell Expl. Co.	East Hackberry	SL 410 Watkins	002	028248
Jones & Mitchell Expl. Co.	East Hackberry	SL 410 Watkins	004	110383
Jones & Mitchell Expl. Co.	East Hackberry	SL 410 Watkins	005	111722
Jones Oil Company	Shreveport	PET SUR;City of Shreveport	001	047309
Lewis & Baumann	Red River-Bull Bayou	Blunt et al	001	030124
Monterey Oil Co.	Wildcat	State Lease 2443	001	064133
On-Mark Corporation	Greenwood-Wakom	PXY RA SUB;J Blackwell	001	190192
Ouida Oil Co.	West Simsboro	Durrett	004	219814
Petroleum Production Management Inc.	Minden	A A Hudson	1-D	113012
Petroleum Production Management Inc.	Minden	A A Hudson	002	119351
Petroleum Production Management Inc.	Minden	PXY STRAY 1 SUA; Hudson	001	120123
Petroleum Production Management Inc.	Minden	Minden	002	081293
Petroleum Production Management Inc.	Minden	Minden	2-D	082459
Petroleum Production Management Inc.	Minden	MPT A SUA; Estelle Talton	001	121490

Petroleum Production Management Inc.	Minden	MITCH SUA; Estelle Talton	1-D	122489
Petroleum Production Management Inc.	Minden	MPT A SUB;Lee	002	124534
Petroleum Production Management Inc.	Minden	Lee	2D	125948
R-5, Inc.	East Hackberry	Caldwell	008	022320
Revilo Exploration, Inc.	Bethany Longstreet	Yarborough	001	143623
Revilo Exploration, Inc.	Bethany Longstreet	Yarborough	1-D	145037
Three Sisters Investments, Ltd.	Cowpen Creek	8200 RA SUA; Crosby Chem	001	184632
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	John Callon Agent	001	177155
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	John Callon Agent	003	197396
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Browne Heirs	001	199431
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Browne Heirs	002	199276
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Browne Heirs	003	172915
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Lowrey	002	176207
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Lowrey	003	176742
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Lowrey	004	177776
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Varner	001	152795
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Varner	002	152863
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Varner	003	194686
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Continental Can Co	001	154094
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Continental Can Co	002	155385
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Lowery Investment Co B	001	184981
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	D C Farms	001	187793
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Floyd Powell A	001	172166
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Wilmer Powell	002	077059

POTPOURRI

**Department of Social Services
Office of Community Services**

Notice Of Funding Availability
Homeless Trust Fund
(LAC 48:I.Chapter 18)

Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Bonds	001	152610
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Floyd Powell	001	166891
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Floyd Powell	002	171793
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Floyd Powell	003	069957
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Floyd Powell	004	172167
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	Floyd Powell	005	077709
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	McMullen	001	169086
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	McMullen	003	156754
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	McMullen	005	201693
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	McMullin Wemple	001	150634
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	McMullin Wemple	002	151217
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	McMullin Wemple	004	151488
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	McMullen-Wemple	003	151354
Trans-Gulf Petroleum Corp.	Red River-Bull Bayou	McMullin Wemple	005	151690
Terry G. Tridico, Sr.	North Shongaloo-Red Rock	Pardee Co	001	190029
Willow Springs Production, Inc.	Unionville	CV DAVIS RA SUHH; Hanna	001	220249
Willow Springs Production, Inc.	Minden	A A Hudson A	1-D	062568
Willow Springs Production, Inc.	Minden	BL RA SUG; A A Hudson A	001	081749
Willow Springs Production, Inc.	Minden	L HOSS SUB; A A Hudson B	001	116655
Willow Springs Production, Inc.	West Simsboro	HOSS RA SUA; Rachel Gafford	001	087982
Clint Young, Inc.	Bayou Tommy	H M Kimball	001	131004

The Department of Social Services (DSS), Office of Community Services (OCS) announces the availability of up to \$31,000 in Louisiana Trust Fund (HTF) monies for grant distribution to applicant nonprofit organizations for use in activities to assist homeless persons. This grant program implements provisions of the Louisiana Homeless Trust Fund Act, Louisiana Revised Statutes 46:591 through 46:595, and complies with procedures described in the Homeless Trust Fund final rule published in the April 1995 *Louisiana Register*, as amended April 1999.

Eligible applicants are private nonprofit organizations which aid the homeless in Louisiana. Applicants shall demonstrate fiscal responsibility, program stability, and an ability to ensure the effective and efficient delivery of quality services to assist homeless persons. Individual grant awards shall not exceed \$5,000 for a maximum 12 month budget period.

Proposals accepted for review will be rated on a comparative basis based on information provided in grant applications. In accordance with program purposes, each application shall be evaluated according to the following factors:

1. the extent to which the proposal meets the needs of homeless persons in the organization's service community, as such needs may be identified by the most recent report of the Louisiana Interagency Council on the Homeless;
2. the extent to which the organization requires Homeless Trust Fund monies as an equivalent match for other homeless assistance funding;
3. the demonstrated success of the program in meeting the needs of the homeless, if the proposal concerns an existing program; and,
4. the extent to which the proposal provides for direct services or housing needs, rather than administrative services.

(NOTE: State regulations also permit the Trust Fund to authorize an emergency grant of up to \$2,000 when requested to help meet the emergency financial needs of a homeless aid organization and should Homeless Trust Fund funding be available for such emergency assistance.)

No expenditure authority or funding obligations shall be implied based on the information in this notice of funds availability.

Applications for funding to be awarded under the Louisiana Homeless Trust Fund grant program must be received by DSS/OCS no later than 4:00 p.m., Friday, November 5, 1999.

Philip N. Asprodites
Commissioner

9909#088

Application packages may be requested by writing to the Office of Community Services, Attention: Homeless Trust Fund Coordinator, P.O. Box 3318, Baton Rouge, Louisiana, 70821, or by telephone to (225) 342-4583.

Gwendolyn P. Hamilton
Secretary

9909#081

POTPOURRI

**Department of Transportation and Development
Office of the General Counsel**

**Off-Premise Changeable Message Signs
(LAC 70:I.132)**

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R. S. 49:968H(2), that the Department of Transportation and Development will hold a public hearing at 10 a.m., Thursday, October 21, 1999, at the Headquarters of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, Louisiana, Second Floor Conference

Room, for the purpose of receiving public comments on substantive changes to the proposed rule on the subject of Off-Premise Changeable Message Signs, as published in the *Louisiana Register*, Volume 25, Number 2, February 20, 1999. All interested persons will be afforded an opportunity to present their views, data, arguments, information, or comments at said hearing.

Copies of the amended rule may be obtained from the Department of Transportation and Development, Legal Section, by contacting Sherryl J. Tucker, P. O. Box 94245, Baton Rouge, Louisiana 70804, or Telephone (225) 237-1359.

Interested persons may submit written comments on the substantive change to the proposed rule until 4:00 P.M. on Wednesday, October 20, 1999, by mailing the comments to the Department of Transportation and Development, Legal Section, Attention: Sherryl J. Tucker, P. O. Box 94245, Baton Rouge, Louisiana 70804.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

9909#037

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