

LOUISIANA
ADMINISTRATIVE CODE
Certified by the Office of the State Register

The Office of the State Register now offers the following *certified* volumes of the *Louisiana Administrative Code* compiled through *June 1995*:

Title 33	
ENVIRONMENTAL QUALITY	
Part V. Hazardous Waste and Hazardous Materials	\$62.40
	\$60.00 Out-of State and LA State Government Agencies
Part XI. Underground Storage Tanks	\$10.40
	\$10.00 Out-of State and LA State Government Agencies
Title 34	
GOVERNMENT CONTRACTS, PROCUREMENT, AND PROPERTY CONTROL	\$41.60
	\$40.00 Out-of State and LA State Government Agencies
Title 42	
LOUISIANA GAMING	\$41.60
	\$40.00 Out-of State and LA State Government Agencies
Title 46	
PROFESSIONAL AND OCCUPATIONAL STANDARDS	
Part XLIX. Nursing Facility Administrators	\$5.20
	\$5.00 Out-of State and LA State Government Agencies
Title 55	
PUBLIC SAFETY	
Part IX. Liquefied Petroleum Gas (Compiled through <i>July 1995</i>)	\$10.40
	\$10.00 Out-of State and LA State Government Agencies
Title 67	
SOCIAL SERVICES	\$41.60
	\$40.00 Out-of State and LA State Government Agencies

Prepayment Required

Office of the State Register
P.O. Box 94095
Baton Rouge, LA 70804-9095
or
1051 North Third Street, Room 512
Baton Rouge, LA 70802

(504) 342-5015

Please include: customer name, customer address, customer telephone, item requested, and check made payable to the Office of the State Register.



CONTENTS

I. EXECUTIVE ORDERS	
EWE 95-22—Allocation of Bond	748
EWE 95-23—Allocation of Bond	748
EWE 95-24—Allocation of Bond	749
II. EMERGENCY RULES	
Civil Service:	
Civil Service Commission—Merit Pay	750
Education:	
Board of Elementary and Secondary Education—Bulletin 746—School Personnel Certification	750
Health and Hospitals:	
Office of the Secretary, Bureau of Health Services Financing—EPSDT Program—Personal Care Services (PCS)	750
Emergency Ambulance.....	753
Home Health Services—Homebound Criteria	754
Nursing Facility Service Reimbursement	755
Optional Targeted Case Management	755
Psychiatric Teaching Hospital	771
Transplant Reimbursement	772
Tuberculosis-Infected Individuals	773
Labor:	
Office of Workers' Compensation, Second Injury Board—Assessment and Timely Filing (LAC 40:III.107 and 301-307).....	774
Public Safety and Corrections:	
Board of Parole—Quorum for Hearings.....	775
Treasury:	
Board of Trustees of the State Employees' Retirement System—Definitions (LAC 58:I.101).....	775
Purchases of State Service (LAC 58:I.1705)	776
Renunciation of Benefit (LAC 58:I.2301)	776
Wildlife and Fisheries:	
Wildlife and Fisheries Commission—Crab Prohibition—Sabine Lake.....	777
Crawfishing on the Sherburne Wildlife Management Area (LAC 76:VII.177).....	777
Early Migratory Bird Hunting.....	779
Fall Inshore Shrimp Season	779
Grand Bayou Reservoir Bass	779
Oyster Season	780

This public document was published at a total cost of \$2,959.40. One thousand, twenty copies of this public document were published in this monthly printing at a cost of \$4,959.40. The total cost of all printings of this document including reprints is \$2,959.40. This document was published by Bourque Printing, Inc., 13112 So. Choctaw Dr., Baton Rouge, LA 70815, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and 981-987. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audio cassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

III. RULES

Education:

Board of Elementary and Secondary Education–Bulletin 1196–Food and Nutrition (LAC 28:I.913)	780
---	-----

Environmental Quality:

Office of Air Quality and Radiation Protection, Air Quality Division–Continuous Monitoring Systems (LAC 33:III.3113)(AQ119)	781
Fee System (LAC 33:III.217,223)(AQ98)	781
Radiation Protection Division–Fee Schedule (LAC 33:XV.Chapter 25)(NE16)	791
Office of Water Resources, Groundwater Protection Division–Groundwater Fees (LAC 33:XIII.Chapter 13)(GW05)	796
Water Pollution Control Division–Fee System (LAC 33:IX.1309, 1319)(WP17).....	798

Governor's Office:

Office of Veterans Affairs, Veterans Affairs Commission–Veterans Homes Admission/Fee Requirements (LAC 4:VII.Chapter 9)	801
---	-----

Health and Hospitals:

Board of Nursing–Community-Based Experiences (LAC 46:XLVII.3539, 3542)	803
Continuing Education; Nursing Practice (LAC 46:XLVII.3356).....	804
Licensure by Examination and Endorsement (LAC 46:XLVII.3349-3351)	804
Office for Citizens with Developmental Disabilities–Vocational and Habilitative Services (LAC 48:IX.107)	805
Office of Public Health–Sanitary Code–Seafood (Chapter IX)	805
Office of the Secretary–Maternal and Child Health Block Grant	806
Bureau of Health Services Financing–Facility Need Review (LAC 48:I.12501-12505)	806

Labor:

Office of Workers' Compensation–Insurance Cost Containment (LAC 40:I.1113)	814
--	-----

Natural Resources:

Office of Conservation–Hazardous Liquids Pipeline Safety (LAC 33:V.Subpart 3)	814
Natural Gas Pipeline Safety (LAC 43:XIII.Chapters 1-29)	820
Pipeline Operation (LAC 43:XI.133)	824
Pipeline Safety–Drug Testing/Alcohol Misuse (LAC 43:XIII.Chapters 31 and 33)	826
Office of the Secretary, Coastal Management Division–Mitigation (LAC 43:I.Chapter 7)	835

Social Services:

Office of Community Services–Limitation of Funds for Treatment (LAC 67:V.203)	836
Office of Family Support–Flood Insurance (LAC 67:III.4702).....	836
Office of Rehabilitation Services–Policy Manual (LAC 67:VII.101)	837
Sign Language Interpreter Certification (LAC 67:VII.1301)	837
Office of the Secretary–Child Care Assistance (LAC 67:I.Chapter 1)	838

IV. NOTICES OF INTENT

Culture, Recreation and Tourism:

Office of the State Library–Public Library Construction/Technology Enhancement (LAC 25:VII.2105)	839
--	-----

Economic Development:

Licensing Board for Contractors–Examination (LAC 46:XXIX.Chapter 5)	840
Office of Financial Institutions–Financial Institution Agency Activities (LAC 10:I.507)	842
Loan Production Offices (LAC 10:I.309); Repeal of LAC 10:XV.1133	844
Loans Secured by Bank or Bank Holding Company Stock (LAC 10:I.527)	846
Real Estate Appraisal Subcommittee–Fees (LAC 46:LXVII.10305).....	848
Real Estate Commission–Payment of Fees (LAC 46:LXVII.705).....	848

Education:

Board of Elementary and Secondary Education–Bulletin 1934–Preschool Starting Point (LAC 28:I.906)	849
---	-----

Environmental Quality:

Office of Air Quality and Radiation Protection, Air Quality Division–Control of Emission of Organic Compounds (LAC 33:III.2117)(AQ131).....	850
Fugitive Emission Control (LAC 33:III.2121)(AQ130).....	851
Modification of NESHAP Sources (LAC 33:III.5115)(AQ129).....	851
Nonattainment New Source Review (LAC 33:III.504)(AQ127).....	852
Office of the Secretary–Emergency Response (LAC 33:I.6901-6925).....	854

Health and Hospitals:

Board of Embalmers and Funeral Directors–Funeral Establishment Application
(LAC 46:XXXVII.1101 and 1103) 858
License Renewal and Reinstatement (LAC 46:XXXVII.701) 859
Board of Optometry Examiners–General Provisions; License; Practice; Examination
(LAC 46:LI.Chapters 1-5) 860
Board of Veterinary Medicine–Fees (LAC 46:LXXXV.501)..... 865
Office of the Secretary–Informed Consent (LAC 48:I.2438, 2440, 2442 and 2444) 866
Bureau of Health Services Financing–Medicaid Eligibility Manual..... 868
Mental Health Rehabilitation..... 868
Nonemergency Medical Transportation 869

Insurance:

Commissioner of Insurance–Credit for Reinsurance (Regulation 56) 871
Life and Health Reinsurance Agreement (Regulation 57) 872

Labor:

Office of Workers' Compensation, Second Injury Board–Assessment and Timely Filing
(LAC 40:III.107 and 301-307)..... 875

Natural Resources:

Office of Conservation–Statewide Order 29-Q-2 (LAC 43:XIX.701-707) 875

Social Services:

Office of Rehabilitation Services–Personal Care Attendant Policy (LAC 67:VII:1127 and 1129) 879
Office of the Secretary, Bureau of Licensing–Child Placing Agencies with/without Adoption Services
(LAC 48:I.Chapter 41) 880

Treasury:

Board of Trustees of the Teachers' Retirement System–Computation of Final Average
Compensation (LAC 58:III)..... 880
Deferred Retirement Option Plan (DROP) (LAC 58:III) 881

V. POTPOURRI

Agriculture and Forestry:

Office of Agricultural and Environmental Sciences, Horticulture Commission–Retail Floristry Exam 882

Environmental Quality:

Office of the Secretary–Risk-based Corrective Action Program (OS21) 883

Governor's Office:

Oil Spill Coordinator's Office–Boundary Map of Coastal Waters 883

Health and Hospitals:

Board of Embalmers and Funeral Directors–Examinations 883
Board of Veterinary Medicine–Examinations 883

Labor:

Office of Employment Security–Average Weekly Wage..... 884
Office of Workers' Compensation–Workers' Compensation Rates 884

Social Services:

Office of Community Services–Homeless Trust Fund 884
Low-income Energy Assistance Program (LIHEAP) Block Grant Funds (FFY 1996) 884

EXECUTIVE ORDERS

EXECUTIVE ORDER EWE 95-22

Allocation of Bond

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

WHEREAS: the parish of Lincoln has requested an allocation from the 1995 Ceiling to be used in connection with the financing of the acquisition, construction, installation of certain solid waste disposal facilities at the oriented strand board plant and the laminated beam plant (the "project"), on behalf of Willamette Industries, Inc., located in Lincoln Parish, Louisiana; and

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

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

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

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

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$15,000,000	Parish of Lincoln	Willamette Industries, Inc.

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

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 19th day of July, 1995.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9508#005

EXECUTIVE ORDER EWE 95-23

Allocation of Bond

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

WHEREAS: the East Baton Rouge Mortgage Finance Authority has requested an allocation from the 1995 Ceiling for the purpose of financing mortgage loans for first time homebuyers throughout the parish of East Baton Rouge in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended; and

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

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

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

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

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$12,500,000	East Baton Rouge Mortgage Finance Authority	Single Family Mortgage Revenue Bonds

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

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through September 30, 1995, provided that such bonds are delivered to the initial purchasers thereof on or about September 30, 1995.

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

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 19th day of July, 1995.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9508#004

EXECUTIVE ORDER EWE 95-24

Allocation of Bond

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

WHEREAS: the New Orleans Home Mortgage Authority (the "authority") has requested an allocation from the 1995 Ceiling to be used in connection with a program (the "program") of financing mortgage loans for first time homebuyers throughout the Parish of Orleans (the "parish") in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended; and

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

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

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

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

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$29,000,000	New Orleans Home Mortgage Authority	Single Family Mortgage Revenue Bonds

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

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 27th day of July, 1995.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9508#007

EMERGENCY RULES

DECLARATION OF EMERGENCY

Department of Civil Service
Civil Service Commission

Merit Pay

At its regular meeting on July 11, 1995, the State Civil Service Commission adopted Emergency Rule 8.27(h), according to Civil Service Rule 2.10(f), to be effective that same date.

Some organizations already had well established merit pay policies in place. This change allows the director to approve an existing merit pay eligibility policy that does not either conflict with, or exceed Civil Service Rules. The change is particularly helpful with large organizations as it prevents disruption of already accepted practices.

The emergency rule is as follows:

8.27 Status of Nonclassified Employees Whose Positions are Declared to be in the State Classified Service or are Acquired by a State Agency.

(a) - (g) ...

(h) An employee who enters the state classified service in accordance with this rule shall have his eligibility for merit increases under Rule 6.14 and leave earning determined based on the original date of appointment with his current or former employer and, upon appointment in the state classified service, shall not be treated as a new employee under the provisions of Rule 6.14. *However, the director may approve existing annual eligibility dates for all employees of an entity, acquired under this rule, that already had a well established merit pay policy.*

(i) - (k)3. ...

This rule will be proposed for regular adoption at the September 13, 1995 commission meeting. The public hearing will be conducted at 9:00 a.m. in the Commission Hearing Room at the Department of State Civil Service, Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

Persons interested in making comments relative to this proposal may do so at the public hearing or by writing to the Director of State Civil Service at Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Herbert L. Sumrall
Director

9508#023

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 746—School Personnel Certification

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, revisions to Bulletin 746, Louisiana Standards for State Certification of School Personnel, as recommended by the Department of Education that will change the certification process for elementary and secondary certification.

Emergency adoption of the revisions will ensure that the welfare and employment of many teachers are not adversely affected by the current certification grade level restrictions since contracts are presently being considered by local school systems. This action will increase the employment opportunities for many teachers by broadening the grade levels of certification they hold and, in many cases, result in eliminating the requirement that they complete additional college course work for continued employment this fall. In addition, this action will benefit school systems by providing them with an increased supply of certified elementary teachers. Effective date of this emergency rule is August 23, 1995, for 120 days or until the final rule takes effect whichever occurs first.

These revisions were previously adopted as an emergency rule and printed in full in the April, 1995 issue of the *Louisiana Register*. Complete text may viewed at the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802; the Department of Education; or the Office of State Board of Elementary and Secondary Education in the Education Building, Baton Rouge, LA 70802.

Carole Wallin
Executive Director

9508#053

DECLARATION OF EMERGENCY

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

EPSDT Program — Personal Care Services (PCS)

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

the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Medicaid Program currently reimburses for various services under the Early, Periodic Screening, Diagnosis and Treatment Program (EPSDT) for Medicaid eligible under 21 years of age. Under the provisions of Section 1905(r)(5) of the Social Security Act, Medicaid is mandated to provide to EPSDT eligibles, all medically necessary services described in 1905(a), including "other diagnostic, treatment and other measures... needed to ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the state Medicaid plan." The Medicaid agency may put reasonable limits and qualifying criteria for such services, but must provide to EPSDT eligibles, all medically necessary services that could otherwise be included in a Medicaid State Plan. Louisiana Medicaid has been advised by the Health Care Financing Administration that it must include Personal Care Services (PCS) in its coverage of medically necessary services to EPSDT eligibles for all EPSDT eligibles identified as requiring such services and referred by a physician for such services as he determines are medically necessary. While PCS are available under the Home and Community-Based Services waiver for Mentally Retarded/Developmentally Disabled (MR/DD) Medicaid eligibles, there were a limited number of slots and an extensive waiting list for services currently exists. This emergency rule implements policy to provide EPSDT Personal Care Services of a lesser scope to EPSDT eligibles meeting certain criteria. This action is necessary to comply with federal law and regulations and prevent the potential loss of federal Medicaid funds for noncompliance. The projected cost for implementing EPSDT Personal Care Services as an EPSDT service is initially estimated to be \$14,626,471 in SFY95-96 and \$15,357,795 in SFY96-97.

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the coverage for EPSDT services and provides a methodology for reimbursement of Personal Care Services for EPSDT eligibles as noted below.

I. Amount, Duration and Scope of EPSDT Personal Care Services

A. EPSDT Personal Care Services are defined as medically necessary tasks pertaining to an EPSDT eligible's functional abilities which prevents institutionalization and enables the recipient to be treated on an outpatient basis rather than an inpatient basis to the extent that services on an outpatient basis are projected to be more cost effective than services provided on an inpatient basis. EPSDT Personal Care Services include the following:

1. basic personal care, toileting and grooming activities, including bathing, care of the hair and assistance with clothing;

2. assistance with bladder and/or bowel requirements or problems, including helping the client to and from the

bathroom or assisting the client with bedpan routines, but excluding catheterization;

3. assistance with eating and food, nutrition, and diet activities, including preparation of meals for the recipient only;

4. performance of incidental household services essential to the client's health and comfort in her/his home. Examples of such activities are changing and washing bed linens and rearranging furniture to enable the recipient to move about more easily in his/her own home;

5. accompanying the client to and from his/her physician and/or medical facility for necessary medical services;

6. EPSDT Personal Care Services are not to be provided to meet childcare needs nor as a substitute for the parent in the absence of the parent;

7. PCS are not allowable for the purpose of providing respite care to the primary caregiver;

8. EPSDT Personal Care Services shall not be covered in an educational setting in which the Department of Education has responsibility for providing these services in the school;

9. the following services are not appropriate for personal care and are *not reimbursable as EPSDT Personal Care Services*:

a. insertion and sterile irrigation of catheters (although changing of a catheter bag is allowable);

b. irrigation of any body cavities which require sterile procedures;

c. application of dressing, involving prescription medication and aseptic techniques, including care of mild, moderate or severe skin problems;

d. administration of injections of fluid into veins, muscles or skin;

e. administration of medicine (as opposed to assisting with self-administered medication for EPSDT eligibles over eighteen years of age);

f. cleaning of floor and furniture in an area not occupied by the recipient. *For example: cleaning entire living area if the recipient occupies only one room;*

g. laundry, other than that incidental to the care of the recipient. *For example, laundering of clothing and bedding for the entire household, as opposed to simple laundering of the recipient's clothing or bedding;*

h. shopping for groceries or household items other than items required specifically for the health and maintenance of the recipient, and not for items used by the rest of the household;

i. skilled nursing services, as defined in the State Nurse Practices Act, including medical observation, recording of vital signs, teaching of diet and/or administration of medications/injections, or other delegated nursing tasks;

j. teaching a family member or friend how to care for a patient who requires frequent changes of clothing or linens due to total or partial incontinence for which no bowel or bladder training program for the patient is possible;

k. specialized nursing procedures such as insertion of nasogastric feeding tube, in-dwelling catheter, tracheostomy care, colostomy care, ileostomy care, venipuncture and/or injections;

- l. rehabilitative services such as those administered by a physical therapist;
- m. teaching a family member or friend techniques for providing specific care;
- n. palliative skin care with medicated creams and ointments and/or requires routine changes of surgical dressings and/or dressing changes due to chronic conditions;
- o. teaching of signs and symptoms of disease process, diet and medications of any new or exacerbated disease process;
- p. specialized aide procedures such as:
 - i) rehabilitation of the patient (exercise or performance of simple procedures as an extension of physical therapy services);
 - ii) measuring/recording patient vital signs (temperature, pulse, respirations and/or blood pressure, etc.) or intake/output of fluids;
 - iii) specimen collection;
 - iv) special procedures such as nonsterile dressings, special skin care (nonmedicated); decubitus ulcers; cast care; assisting with ostomy care; assisting with catheter care; testing urine for sugar and acetone; breathing exercises; weight measurement; enemas;
- q. home IV therapy;
- r. custodial care or provision of only instrumental activities of daily living tasks or provision of only one activity of daily living task;
- s. occupational therapy; speech pathology services; audiology services, respiratory therapy;
- t. personal comfort items; durable medical equipment; oxygen; orthotic appliances or prosthetic devices;
- u. drugs provided through the Louisiana Medicaid pharmacy program;
- v. laboratory services; and
- w. social worker visits.

B. Conditions for provision of EPSDT Personal Care Services are as follows:

1. the person must be a categorically eligible Medicaid recipient birth through twenty years of age (EPSDT eligible) and have been prescribed EPSDT PCS as medically necessary by a physician. To establish medical necessity the parent or guardian must be physically unable to provide personal care services to the child;
2. an EPSDT eligible must meet medical necessity criteria as established by the BHSF which shall be based on criteria equivalent to at least an Intermediate Care Facility I (ICF-I) level of care; and be impaired in at least two of daily living tasks, as determined by BHSF;
3. when determining whether a recipient qualifies for EPSDT PCS, consideration must be given not only to the type of services needed, but also the availability of family members and/or friends who can aid in providing such care. EPSDT PCS are not to function as a substitute for childcare arrangements;
4. EPSDT Personal Care Services must be prescribed by the recipient's attending physician initially and every 180 days thereafter (or rolling six months), and when changes in the

Plan of Care occur. The physician should only sign a fully completed plan of care which shall be acceptable for submission to BHSF only after the physician signs and dates the form. The physician's signature must be an original signature and not a rubber stamp;

5. EPSDT Personal Care Services must be prior authorized by the BHSF or its designee. A face-to-face medical assessment shall be completed by the physician. The recipient's choice of a Personal Care Services provider may assist the physician in developing a plan of care which shall be submitted by the physician for review/approval by BHSF or its designee. The plan of care must specify the personal care service(s) to be provided (i.e., activities of daily living for which assistance is needed) and the minimum and maximum frequency and the minimum and maximum duration of each of these services. Dates of care not included in the plan of care or provided prior to approval of the plan of care by BHSF are not reimbursable. The recipient's attending physician shall review and/or modify the plan of care and sign off on it prior to the plan of care being submitted to BHSF. A copy of the physician's prescription or referral for EPSDT PCA services must also be retained in the personal care services provider's files. A new plan of care must be submitted at least every 180 days (rolling six months) with approval by the recipient's attending physician. The plan of care must reassess the patient's need for EPSDT PCS services, including any updates to information which has changed since the previous assessment was conducted (with explanation of when and why the change(s) occurred). Revisions of the Plan of Care may be necessary because of changes that occur in the patient's medical condition which warrant an additional type of service, an increase in frequency of service or an increase in duration of service. Documentation for a revised Plan of Care is the same as for a new Plan of Care. Both a new "start date" and "reassessment date" must be established at the time of reassessment. The provider may not initiate services or changes in services under the Plan of Care prior to approval by BHSF;

6. EPSDT Personal Care Services must be provided in the recipient's home or in another location if medically necessary to be outside of the recipient's home. The recipient's home is defined as the recipient's own dwelling, an apartment, a custodial relative's home, a boarding home, a foster home, a substitute family home or a supervised living facility. Institutions such as a hospital, institution for mental diseases, nursing facility, intermediate care facility for the mentally retarded or residential treatment center are not considered a recipient's home;

7. personal Care Services must be provided by a licensed personal care services agency which is duly enrolled as a Medicaid provider. Staff assigned to provide personal care services shall not be a member of the recipient's immediate family. (Immediate family includes father, mother, sister, brother, spouse, child, grandparent, in-law or any individual acting as parent or guardian of the recipient). Personal care services may be provided by a person of a degree of relationship to the recipient other than immediate family, if the

relative is not living in the recipient's home, or, if she/he is living in the recipient's home solely because her/his presence in the home is necessitated by the amount of care required by the recipient;

8. EPSDT Personal Care Services are limited to a maximum of four hours per day per recipient as prescribed by the recipient's attending physician and prior authorized by the Bureau of Health Services Financing (BHSF) or its designee. Extensions of this limit may be requested and granted if determined medically necessary by the Bureau of Health Services Financing or its designee.

II. Standards for Payment

A. EPSDT Personal Care Services may be provided only to EPSDT eligibles and only by a staff member of a licensed Personal Care Services agency enrolled as a Medicaid provider. A copy of the current PCS license must accompany the Medicaid application for enrollment as a PCS provider and additional copies of current licenses shall be submitted to Provider Enrollment thereafter as they are issued, for inclusion in the enrollment record. The provider's enrollment record must always include a current PCS license at all times. Enrollment is limited to providers in Louisiana and out of state providers only in trade areas of states bordering Louisiana (Arkansas, Mississippi, and Texas).

B. The unit of service billed by EPSDT PCS providers shall be one-half hour, exclusive of travel time to arrive at the recipient's home. The entire 30 minutes of the unit of time shall have been spent providing services in order to bill a unit.

C. All EPSDT PCS must be prescribed by a physician at least every 180 days (rolling six months) as indicated by his/her approval on the plan of care for EPSDT PCA services.

D. EPSDT PCS shall be prior authorized by BHSF in accordance with a plan of care submitted by the provider and approved by the physician, for no more than a six-month period. Services must be reauthorized every six months and a new plan of care must be submitted with each subsequent request for approval. Amendments or changes in the plan of care should be submitted as they occur and shall be treated as a new Plan of Care which begins a new six month service period.

E. The PCS agency is responsible for ensuring that all personal care attendants meet all training requirements applicable under state law and regulations. The personal care attendant must successfully complete the applicable examination for certification as a PCS. Documentation of the PCA's completion of requirements shall be maintained by the Personal Care Services provider.

F. The recipient shall be allowed the freedom of choice to select an EPSDT PCS provider.

G. Documentation for EPSDT PCS provided shall include at a minimum, the following: documentation of approval of services by BHSF or its designee; daily notes by PCA denoting date of service, services provided (checklist is adequate); total number of hours worked; time period worked; condition of client; service provision difficulties; justification for not providing scheduled services and any other pertinent information. There must be a clear audit trail between the

prescribing physician, the personal care provider, the personal care attendant, the recipient, and the services provided and reimbursed by Medicaid.

H. Agencies providing EPSDT PCS shall conform to all applicable Medicaid regulations as well as all applicable laws and regulations by federal, state, and local governmental entities regarding wages, working conditions, benefits, Social Security deductions, OSHA requirements, liability insurance, Workman's Compensation, occupational licenses, etc.

I. EPSDT Personal Care Services provided to meet childcare needs or as a substitute for the parent in the absence of the parent shall not be reimbursed.

J. EPSDT Personal Care Services provided for the purpose of providing respite to the primary caregiver shall not be reimbursed.

K. EPSDT Personal Care Services provided in an educational setting for which the Department of Education has responsibility for providing such services shall not be reimbursed.

III. Reimbursement Methodology for EPSDT PCS

EPSDT PCS shall be paid the lesser of billed charges or the maximum unit rate set by BHSF. This maximum rate was set based on the federal minimum hourly wage as of April 1, 1995, plus 22 percent for fringe benefits (insurance, workmen's compensation, unemployment, etc.); plus 24 percent for agency administrative and operating costs based on BHSF administrative and operating costs; plus a profit factor of four percent of the above calculated rate.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, 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. Copies of this rule are available in the Medicaid parish offices for review by interested parties.

Rose V. Forrest
Secretary

9508#011

DECLARATION OF EMERGENCY

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

Emergency Ambulance Services

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

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

Emergency Rule

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

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

Rose V. Forrest
Secretary

9508#010

DECLARATION OF EMERGENCY

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

Home Health Services—Homebound Criteria

The Department of Health and Hospitals, Office of the Secretary, has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period of 120 days as allowed under the Administrative Procedure Act or adoption of the rule whichever occurs first.

The Bureau of Health Services Financing has adopted the following criteria for the determination of homebound status upon which the necessity for home health services is established for Medicaid recipients under the Medical Assistance Program. This definition is adapted from the Medicare definition and is being published in order to establish this as the official policy of this agency.

Emergency Rule

The department provides reimbursement for approved home health services for Medicaid recipients based upon the certification of a licensed physician that the recipient is homebound and the determination of the Medicaid Program that the recipient meets the bureau's homebound criteria under the Medicaid Program.

Homebound Criteria for Medicaid Recipients

Homebound status is determined by the recipient's illness and functional limitations. A recipient is considered to be homebound if the individual:

1. experiences a normal inability to leave home; or
2. is unable to leave home without expending a considerable and taxing effort; and
3. whose absences from the home are infrequent, of short duration, or to receive medical services which may be unavailable in the home setting, such as ongoing treatment of outpatient kidney dialysis or outpatient chemotherapy or radiation therapy.

The bureau allows an exception to the third requirement of being unable to leave home for EPSDT recipients, up to age 21, who attend school. However, home health services are covered only when provided in the recipient's home; these services are not reimbursable by Medicaid when provided at school or in any other setting outside the home. These recipients may be considered to meet the homebound criteria while attending school if prior authorization has approved the individual for multiple daily home visits for skilled nursing services in accordance with the certifying physician's orders which must document and meet the following criteria:

1. the medical condition of the child meets the medical necessity requirement for the skilled nursing services in the

home and that the provision of these services in the home is the most appropriate level of medical care;

2. that the failure to receive skilled nursing services in the home would place the recipient at risk of developing additional medical problems or could cause further debilitation; and

3. that the recipient/student requires skilled nursing services on a regular basis and that these services cannot be obtained in an outpatient setting before or after normal school hours. In addition the following conditions must be met.

1. The recipient/student is determined to be medically fragile. A medically fragile individual is one who has a medically complex condition characterized by multiple, significant medical problems, which require extended care. Examples of medically fragile patients are patients whose care requires most or all of the following services/aides: use of home monitoring equipment, IV therapy, ventilator or tracheostomy care, feeding tube and nutritional support, frequent respiratory care or medication administration, catheter care, frequent positioning needs, etc.

2 Special accommodations such as specially equipped vehicles or medical devices and/or personal care attendants or nurses are needed to accompany the patient/student to and from school and/or to assist the patient/student at school.

The responsibilities of the home health agency:

The home health agency must provide to the bureau upon request the supporting documentation used to determine the recipient's homebound status.

The home health agency must report a complaint of abuse or neglect of home health recipient(s) to the appropriate authorities if the agency has knowledge that a minor child, or a nonconsenting adult or mentally incompetent adult, has been abused or not receiving the proper medical care due to neglect or lack of cooperation on the part of the legal guardians or caretakers. This includes knowledge that a patient is routinely being taken out of the home by a legal guardian or caretaker against medical advise, or when it is obviously medically contraindicated.

Rose V. Forrest
Secretary

9508#009

DECLARATION OF EMERGENCY

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

Nursing Facility Service Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This

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

The Medical Assistance Program established a prospective cost-related reimbursement methodology for private nursing facility services utilizing a base rate related to specific cost categories, determined for each uniform recipient level of care (Skilled Nursing, Intermediate Care-I and Intermediate Care-II) and specifying the inflationary adjustment mechanism or recalculation period to govern nursing facility services reimbursement effective August 1, 1984 as published in the June 20, 1994 issue of the *Louisiana Register* (Volume 20, Number 6). This rule was repealed effective January 1, 1995 by emergency rulemaking (*Louisiana Register*, January 20, 1995, Volume 21, Number 1) and by subsequent emergency rulemaking *Louisiana Register* May 20, 1995 (Volume 21 Number 5) in which the cost categories were revised to consist of three direct and five indirect resident care cost categories and the incentive factor. The 80th percentile was adopted for basing rates for the direct resident care cost categories, the 60th percentile for the indirect resident care cost categories except housekeeping, linen and laundry category which was set at the 70th percentile. The bureau adopted an emergency rule effective July 1, 1995 (*Louisiana Register* Volume 21 Number 6) adopting the 60th percentile for all direct and indirect resident care cost categories to base the per diem rate. The bureau is repealing this July 1, 1995 emergency rule to ensure adequate reimbursement for these services in accordance with the Section 962 of OBRA 1980, P. L. 96-499 and thereby avoid the potential application of federal sanctions or penalties.

Emergency Rule

Effective for date of service August 4, 1995 and after, the Department of Health and Hospitals, the Bureau of Health Services Financing repeals the July 1, 1995 emergency rule published in the *Louisiana Register* Volume 21, Number 7 page 658.

Rose V. Forrest
Secretary

9508#034

DECLARATION OF EMERGENCY

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

Optional Targeted Case Management Services

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

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

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

There has been a tremendous growth in interest on behalf of the public in providing these services to the Medicaid populations. In addition, as these services have been implemented and governed under specific program regulations over the past five years, the department now seeks to enhance all these services to the optimal level while streamlining their administration. In addition this emergency rule establishes enhanced regulations governing consumer eligibility, provider enrollment, provider standards for participation and payment, and general provisions. The department adopted emergency rules to ensure uniform standards for the quality of the services delivered to these persons with special physical and/or health needs and conditions effective July 22, 1994 and August 13, 1994 (*Louisiana Register* Volume 20 Numbers 6 and 7). Subsequent emergency rules continued this initiative in force as published in the (*Louisiana Register*, November 20, 1994 Volume 20, Number 11 and April 20, 1995, Volume 21 Number 4). This rule is also being adopted to continue these provisions in force in order to ensure the health and welfare of the targeted populations with special and/or health needs and conditions.

Emergency Rule

Effective July 15, 1995 the Bureau of Health Services Financing repeals all previously adopted rules on case management services and adopts the following consumer eligibility requirements, provider enrollment, provider standards for participation and payment, and general provisions. This emergency rule applies to case management services provided either to targeted population groups or under a waiver program(s) in which case management services are included. This emergency rule governs case management services for the following specific population groups: 1) mentally retarded/developmentally disabled individuals; 2) infants and toddlers with special needs; 3) high-risk pregnant

women; 4) persons infected with HIV; 5) seriously mentally ill individuals; and 6) persons in waiver program(s) in which case managements services are included. Services for ventilator-assisted children are terminated as a specific targeted group but these children may be eligible under the other target groups listed above. All case management providers must follow the policies and procedures included in this emergency rule as well as in the *Department of Health and Hospitals Case Management Provider Manual*. Under this rule the term "case management" has the same meaning as the term "family service coordination". Case management services must be delivered in accordance with all applicable federal and state laws and regulations. This emergency rule does not repeal the June 1995 emergency rules governing case management services provided to mentally retarded developmentally disabled individuals and infants and toddlers with special needs or the July 7, 1995 emergency rule reducing the reimbursement rate for case management services published in the *Louisiana Register*, Volume 21 Numbers 6 and 7.

I. Standards of Participation

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

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

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

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

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

1. has demonstrated direct experience in successfully serving the target population and demonstrated knowledge of available community services and methods for accessing them including all of the following:
 - a. has established linkages with the resources available in the consumer's community;
 - b. maintains a current resource file of medical, mental health, social, financial assistance, vocational, educational, housing and other support services available to the target population; and
 - c. demonstrates knowledge of the eligibility requirements and application procedures of federal, state, and local government assistance programs which are applicable to consumers served;
 - d. employs a sufficient number of qualified case manager and supervisory staff who meet the skills, knowledge, abilities, education, training, supervision, staff coverage and maximum caseload size requirements described in Section C below;
2. possesses a current license to provide case management/service coordination in Louisiana or written proof of application for licensure;
3. demonstrates administrative capacity to provide all core elements of case management and insure effective case management services to the target population in accordance with licensing and DHH requirements by DHH review of the following:
 - a. current detailed budget for case management;
 - b. report of annual outside audit by a CPA performed in accordance with generally accepted accounting principles;
 - c. cost report by September 30 of each year following 12 months of operation;
 - d. provider policies and procedures;
 - e. functional organization chart depicting lines of authority; and
 - f. program philosophy, goals, services provided, and eligibility criteria that defines the target population or waiver group to be served;
4. assures that all case manager staff is employed by the agency in accordance with Internal Revenue Service (IRS) regulations (including submission of a W-2 form on each case

manager). Contracting case manager staff is prohibited. Contracting of supervisors must comply with IRS regulations. Each case manager must be employed 20 hours per week;

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

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

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

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

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

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

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

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

a. adequately funding required qualified staff and services;

b. providing documentation of services and costs;

c. complying with state and federal financial reporting requirements; and

d. submitting reports in the manner specified by Medicaid;

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

14. maintains a written policy for transition and closure;

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

16. fully complies with the Code of Governmental Ethics.

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

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

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

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

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

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

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

If the applicant agency is determined to be eligible for enrollment, the agency will be notified in writing by the Medicaid Program of the effective date of enrollment and the unique Medicaid case management provider number for each office site and targeted or waiver group. If the department determines that the applicant case management agency does not meet the general or specific enrollment requirements listed above, the applicant agency will be notified in writing of the deficiencies needing correction. The applicant agency must submit appropriate documentation of corrective action taken. If the applicant agency fails to submit the required documentation of corrective action taken within 30 days of the notice, the application will be rejected. If the case management agency does not meet all of the requirements 1-14 in Section A above, the applicant agency will be ineligible to provide case management services to any targeted or waiver group.

II. Standards of Payment

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

A. **Staff Coverage.** All case managers must be employed by the case management agency a minimum of 20 hours per week and work at least 50 percent of the time during normal business hours (8:00 A.M. to 5:00 P.M., Monday through Friday). Contracting of case manager staff is prohibited. Case management supervisors must be employed a minimum of eight hours per week for each full time case manager (four hours a week for each part-time case manager) they supervise and maintain on-site office hours at least 50 percent of the time. A supervisor must be continuously available to case managers by telephone or beeper at all other times when not on site when case management services are provided. The provider agency must ensure that case management services are available 24 hours a day, seven days a week.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. a licensed registered nurse AND three years of paid post-licensure experience as a registered nurse in public health or a human service-related field providing direct consumer services or case management in the human service-related field. Two years of this experience must be in providing direct services to the target population to be served; OR

d. a bachelor's degree in a human service-related field such as psychology, education, rehabilitation counseling, or

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

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

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

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

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

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

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

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

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

a. Knowledge:

(1) community resources;

(2) medical terminology;

(3) case management principles and practices;

- (4) consumer rights;
- (5) state and federal laws for public assistance;

b. Skills:

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

c. Abilities:

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

relationships;

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

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

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

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

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

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

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

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

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

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

The required orientation and training for case managers

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

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

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

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

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

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

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

- a. individual, face to face sessions with staff to review cases, assess performance and give feedback;
- b. group face to face sessions with all case

management staff to problem solve, provide feedback and support to case managers;

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

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

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

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

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

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

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

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

1. Infants and Toddlers with Special Needs

a. a documented established medical condition determined by a licensed medical doctor. In the case of a hearing impairment, licensed audiologist or licensed medical doctor must make the determination; OR

b. a developmental delay in one or more of the following areas:

(1) cognitive development;

(2) physical development, including vision and hearing eligibility must be based on a documented diagnosis made by a licensed medical doctor (vision) or a licensed medical doctor or licensed audiologist (hearing);

(3) communication development;

(4) social or emotional development;

(5) adaptive development;

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

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

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

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

c. which is likely to continue indefinitely; AND

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

(1) self care;

(2) understanding and use of language;

(3) learning;

(4) mobility;

(5) self-direction;

(6) capacity for independent living; AND

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

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

3. High-Risk Pregnant Women

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

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

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

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

4. HIV Infected

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

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

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

5. Seriously Mentally Ill

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

(1) Age: 18 years or older; and

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

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

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

b. *Children/youth (under age 18) with emotional/behavioral disorders* is defined as follows: behavioral or emotional responses so different from appropriate age, cultural, or ethnic norms that they adversely affect performance (including academic, social, vocational or personal skills); a disability which is more than a temporary, expected response to stressful events in the environment, is consistently exhibited in two different settings and persists despite individualized intervention within general education and other settings. Emotional and behavioral disorders can co-exist with other disabilities.

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

(1) Age: under age 18; and

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

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

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

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

(d) have a DSM-III-R (or successor) diagnosis indicating a severe mental disorder, such as, but not limited to psychosis, schizophrenia, major affective disorders, reactive attachment disorder of infancy or early childhood (non-organic failure to thrive) or severe conduct disorder. This category does not include children/youth who are socially maladjusted

unless it is determined that they also meet the criteria for emotional/behavior disorders; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) provide the consumer freedom of choice of available service providers. The consumer must sign a standardized intake form to verify the above procedural safeguards;

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

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

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

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

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

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

c. the Child Search Coordinator must advise the family of their procedural safeguards and provide them with a copy of their rights under ChildNet.

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

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

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

2. Case Management Assessment. "Assessment" is defined as the process of gathering and integrating formal/professional and informal information concerning a consumer's goals, strengths, and needs to assist in the development of a comprehensive, individualized service plan. The purpose of assessment is to establish a service plan and contract between the case manager and consumer. The following areas must be addressed in the assessment when relevant: identifying information; medical/physical; psychosocial/behavioral; developmental/intellectual; socialization/recreational; financial; educational/vocational; family functioning; personal and community support systems; housing/physical environment; and status of other functional areas or domains.

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

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

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

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

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

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

The MDE must include the following:

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

Assessment of Developmentally Disabled Children Three Years and Older and Adults

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

b. CAMIS Initial Assessment

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

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

b. CAMIS Initial Assessment

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

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

- a. coordinating the performance of identified or necessary evaluations to ensure timely completion in preparation for the multi-disciplinary team staffing;
- b. identifying or coordinating the identification of the

consumer's concerns, priorities and resources.

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

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

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

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

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

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

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

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

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

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

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

- a. translating assessment findings into services;
- b. determining which services and connections are needed;
- c. being aware of community resources (Food Stamps, SSI, Medicaid, etc.);
- d. exploration of both formal and informal services for consumers;
- e. communicating and negotiating with service providers;
- f. training and support of the consumer in the use of personal and community resources identified in the service plan;
- g. linking consumers through referrals to services that meet their needs as identified in the service plan; and
- h. advocacy on behalf of the consumer to assist them in accessing appropriate benefits or services.

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

The consumer must be contacted within the first *10 working days* after the initial service plan is completed to assure appropriateness and adequacy of service delivery. Thereafter, face-to-face follow up visits must be made with the consumer/guardian at least monthly as part of the linkage and monitoring follow-up process, or more

frequently as dictated by the service plan or determined by the needs of the consumer/guardian. In addition, visits must be made to consumer's home on a quarterly basis, at a minimum. If the consumer refuses home visits or there are genuine concerns regarding safety, an alternative setting in the consumer's community may be chosen jointly with the consumer.

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

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

Monitoring of services provided includes the following:

- a. following up to assure that the consumer actually received the services as scheduled;
- b. assuring that consumer/consumer's family is able and willing to comply with recommendations of service providers;
- c. measuring progress of consumer in meeting service plan goals and objectives and determining whether the services adequately address the consumer's needs.

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

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

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

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

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

in status or needs occurs. Reassessment is accomplished through interviews and periodic observations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. the family will be referred back to the Child Search Coordinator. This referral can be made by the family, the current family service coordinator, or other service providers;
- b. the Child Search Coordinator will provide the family with the official list of family service coordination providers and the freedom of choice form;

- c. the Child Search Coordinator will review the family's rights under ChildNet with the family including the right to change family service coordinators or agencies;
- d. the Child Search Coordinator or the family, if the family chooses, will notify the newly selected agency;
- e. the Child Search Coordinator will notify the old agency at termination;
- f. after receiving written informed paternal consent, the new agency will request records from the previous agency. The previous agency will make these records available within 10 working days of receipt of the request.

III. General Provisions

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

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

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

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

and supported consumer" do not constitute adequate documentation.

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

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

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

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

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

The organization of individual case management records on consumers and location of documents within the record must conform with state licensing standards and be consistent among records. All entries made by staff in consumer records must be legible, fully dated, legibly signed and include the functional title of the individual. Any error made by the staff in a consumer's record must be corrected using the legal method which is to draw a line through the erroneous information, write "error" by it and initial the correction. Correction fluid cannot be used in consumer records.

Providers must make all necessary consumer records available to appropriate state and federal personnel at all reasonable times. Providers must always safeguard the confidentiality of consumer information. Under no

circumstances should providers allow case management staff to take records home. The case management agency can release confidential information only under the following conditions:

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

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

B. Reimbursement

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

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

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

2. Reimbursement Methodology. Providers of targeted and waiver case management services will be reimbursed a flat fee for assessment/service planning and on a unit of service basis for ongoing allowable case management services to implement the service plan. These fees will be established based on the cost of providing these services for the target population. Reimbursement will be based on allowable cost not to exceed limitations established by the Medicaid Program. Rates will be set in accordance with HIM-15 requirements (the rate setting guide for Louisiana) and federal Medicaid regulations.

a. Targeted and Waiver Groups (except High Risk Pregnant Women)

- (1). a flat fee reimbursement will be established for billing for the initial assessment/service planning period for a specific targeted or waiver case management population (excluding High Risk Pregnant Women). Only one completed written initial assessment/service plan may be billed for an

eligible consumer. Reimbursement for the initial completed written assessment and service plan will be subject to prior authorization by DHH.

(2). all billable, allowable ongoing services provided to an eligible consumer in a specific targeted population (excluding High Risk Pregnant Women) will continue to be reimbursed under the current methodology utilizing 15 minutes as the unit of service. All billable activities performed after the written initial assessment and service plan is completed and approved by DHH, if applicable, must be billed as ongoing service units. This includes linkage, follow-up/monitoring, reassessment and revisions in the service plan, and transition/closure activities.

Case managers must maintain separate service logs on each eligible consumer completed by the case managers which clearly document the units of ongoing service they have provided. The provider will not be reimbursed for ongoing services on an eligible consumer that exceeds the maximum established by the department for that target population or maximum number of ongoing service units prior authorized by the department, if prior authorization procedures are applicable. All providers must comply with standard provisions concerning such procedures as audit, timely submittal of cost reports, etc. described in the Standards of Payment.

a. High Risk Pregnant Women

(1) A High Risk Pregnant Woman medical risk assessment will be reimbursed as a flat fee. A maximum of two medical risk assessments performed by a qualified medical provider may be reimbursed during the prenatal period of a pregnant woman who is otherwise eligible for case management services.

(2) High Risk Pregnant Woman case management services will be reimbursed on a monthly unit of service during the consumer's pregnancy and postpartal period after eligibility is established. A maximum of two units of ongoing services may be billed within the postpartal period up to 60 days after delivery.

Providers billing multiple ongoing activities on the same date must add together the minutes of all billable ongoing units of service (excluding all initial assessment and service planning activities) for the eligible consumer and divide by 15 to compute the total amount of ongoing service units for that date. Remainders under half a 15 minute unit are rounded down. On any given day, a maximum of one line of billing may be submitted for billable ongoing services provided.

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

A technical amendment (Public Law 100-617) in 1988 specifies that the Medicaid Program is not required to pay for case management services that are furnished to consumers without charge. This is in keeping with Medicaid's

longstanding position as the payer of last resort. With the statutory exceptions of case management services included in Individualized Education Programs (IEPs) or Individualized Family Service Plans (IFSPs) and services furnished through Title V public health agencies, payment for case management services cannot be made when another third party payer is liable, nor may payments be made for services for which no payment liability is incurred.

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

1. outreach, case finding or marketing;
2. counseling or any form of therapeutic intervention;
3. developing general community or placement resources or a community resource directory;
4. legislative or general advocacy;
5. professional evaluations;
6. training;
7. providing transportation;
8. telephone calls to a busy number, leaving messages, FAXing or mailing information;
9. travel to a consumer's home for a home visit, and the consumer is not at home so that the visit cannot be held but a note is left;
10. "housekeeping" activities in connection with record keeping. (Recording a contact in the case record at the time service is provided is billable.);
11. in-service training, supervision;
12. discharge planning; EXCEPTION: 10 days (30 days for developmentally disabled waiver participant) before discharge from an inpatient facility to assist the consumer in the transition from inpatient to outpatient status, and in arranging appropriate services and 10 days after institutionalization or hospitalization to arrange for closure of community services;
13. intake screening which takes place prior to and is separate from assessment;
14. general administrative, supervisory or clerical activities;
15. record keeping;
16. general interagency coordination;
17. program planning;
18. medicaid billing or communications with Medicaid Program;
19. running errands for family (shopping, picking up medication, etc.);
20. accompanying family to appointments or recreational activities, waiting for appointments with family;
21. lengthy interaction to "get acquainted", "provide support" or "hand holding";
22. activities performed by agency staff other than the primary case manager;

23. accompanying another case manager either because of or for safety reasons.

Rose V. Forrest
Secretary

9508#013

DECLARATION OF EMERGENCY

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

Psychiatric Hospitals Classified as Teaching Hospitals

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:150 et seq. and pursuant Title XIX of the Social Security Act. This emergency rule is in accordance with the Administrative Procedure Act and shall be in effect for the maximum period allowed under the act or until adoption of the final rule, whichever occurs first.

The Bureau of Health Services Financing established the teaching hospital designation for psychiatric hospitals to provide a basis for such hospitals to affiliate with medical schools and thereby enhance the quality of medical education and psychiatric services available to Medicaid recipients. In order to assure medical education program standards are reflected by an affiliate hospitals, LSU has worked with DHH to develop a model Quality Assurance (QA) Program for its affiliate psychiatric teaching hospitals. To assure uniform application of these standards, the of Bureau Health Services Financing has agreed to authorize Louisiana's State Medical School to establish a model QA Program to perform on-site admission and continued stay reviews utilizing Medicaid standards. The bureau retains responsibility and authority for approving the admissions and extensions of stay criteria as well as the prior authorization process. To assure independence, the LSU QA Program is separate and distinct from facility training programs. The QA Program operates under an affiliation agreement with the medical school and prohibits professional staff from providing clinical or other professional services to the facilities they are assigned or any related party.

Under this program, an independent team of medical professionals perform on-site reviews of all admissions and patients. Participating facilities and units are prohibited from admitting any patients regardless of payor who are not approved by the QA Program. Additionally, QA Program staff perform continuing on-site reviews of patient care and treatment regimens to determine the continued need for care on an in-patient basis. As a result the QA Program meets with facility treatment staff to review care and make appropriate changes in the treatment regimen to assure the care provided is medically necessary as well as appropriate for

an in-patient setting based on each individual's patient's situation. The QA Program also reviews all discharge planning of patients to assure appropriate referrals or out-patient treatment is available to the patient and family.

The of Bureau Health Services Financing is adopting the following on-site review standards for Medicaid providers of inpatient psychiatric services. Under this emergency rule, any inpatient psychiatric service provider may elect to participate in the LSU QA Program and have been accepted by LSU will be exempt from prior authorization of inpatient admissions through the Medicaid fiscal intermediary. However, such providers must meet all QA Program requirements including review of all admissions regardless of payor. Providers are required to utilize either the fiscal intermediary prior authorization process or participate in the LSU QA Program which utilizes on-site admission and continued stay reviews. Providers should be aware that the requirements of the LSU QA Program are more extensive than the fiscal intermediary's prior authorization system for admission and continued stays in psychiatric hospitals as the requirements are applied to all admissions and continued stays regardless of payor. Additionally, the LSU QA Program applies the more restrictive Medicaid admission criteria for persons under 21 to all admissions regardless of age.

These standards apply an on-site review function to the admission criteria utilized by Medicaid and are applied uniformly across payors. Under this emergency rule the Bureau of Health Services Financing is authorizing all inpatient psychiatric service providers to utilize this alternative authorization process on a voluntary basis. This authorization is subject to the LSU QA Program's ability to assume additional facilities. While the bureau has the authority to apply admission criteria to all Medicaid covered inpatient services, it cannot mandate or require facilities to apply these standards to other payors. For this reason, the fiscal intermediary prior authorization system shall remain the primary authorization process for Medicaid, and the LSU QA Program shall be authorized as an alternative prior authorization program in which providers may elect to participate on a voluntary basis.

The standards utilized by the LSU QA Program are required to track specific state and federal Medicaid standards outlined in this emergency rule. Any changes to those standards must be approved by Medicaid prior to implementation to assure compliance with all applicable state and federal regulatory requirements and assure overall administration of the Medicaid program resides under the Department of Health and Hospitals which is the single state agency designated by the state and approved by the federal government.

It is estimated that the fiscal impact of these changes will reduce Medicaid expenditures for administrative cost and in-patient psychiatric services. However, there is currently insufficient data available to allow projection of an actual dollar amount of savings resulting from this emergency rule. The current rules regarding pre-admission certification and length of stay assignments shall remain in effect for all psychiatric services reimbursed under Medicaid. However,

application of these standards shall be performed by the LSU QA Program and the Medicaid fiscal intermediary. To the extent LSU utilizes on-site review of treatment plans and patient by an independent team, HCIA length of stay criteria and extension criteria are not necessary as the length of stay for each patient shall be subject to continued review and adjustment based on independent on-site assessment of the need for hospitalization.

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions to govern admissions and extensions of stay criteria for psychiatric hospitals classified as teaching hospitals under the LSU School of Medicine. The bureau retains the responsibility and authority for approving admissions and extensions of stay criteria as well as the prior authorization process for all inpatient psychiatric services.

LSU Quality Assurance Program

Where an LSU School of Medicine-affiliated psychiatric teaching hospital or the enrolled Medicaid inpatient psychiatric service provider has all admissions and continuing care on an in-patient basis prior authorized by the LSU QA Program, the provider shall not be required to obtain a separate authorization for treatment from the Medicaid fiscal intermediary. Written documentation of all authorizations and denials shall be maintained in each patient's medical record for a minimum period of three years to allow review and audit by the Medicaid Program. Where an initial review or audit is conducted, the applicable medical records and documentation shall be maintained for a minimum of five years.

LSU QA Program standards for patient admission shall, at a minimum, comply with Item "Pre-admission Certification Criteria of Need for Psychiatric Hospitalization for all Persons under 21 Years of Age", Item 2 of the Bureau of Health Services Financing's proposed regulation published in the *Louisiana Register*, Volume 21, January 20, 1995, pages 71-79 or any subsequent requirements hereinafter adopted by the Bureau of Health Services Financing.

HCIA length of stay criteria and extension criteria shall not be applicable to the LSU QA Program which performs independent on-site review of each patient's progress and treatment regimen to determine the need and appropriateness for continuing treatment on an inpatient basis. LSU QA Program approval of continuing care on an inpatient basis shall, at a minimum, follow the specific criteria for psychiatric units adopted by the Health Care Financing Administration effective August 29, 1994 (Provider Reimbursement manual Part I, Section 3001.6).

The LSU QA Program shall assure independence of the program and staff through establishment of appropriate protocols and affiliations which assure professional staff are prohibited from providing clinical or other professional services to the facilities they are assigned or to any related party.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030,

Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at Parish Medicaid Offices for review by interested parties.

Rose V. Forrest
Secretary

9508#012

DECLARATION OF EMERGENCY

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

Transplant Reimbursement

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

On July 1, 1994 the department adopted the Prospective Payment Reimbursement Methodology for inpatient hospital services (referenced in the *Louisiana Register*, June 20, 1994, Volume 20, Number 6) which included specific methodology for the reimbursement of transplant services. The department has determined that systems limitations prohibit the implementation of the transplant reimbursement provision of the Prospective Payment Reimbursement Methodology. Therefore, the department has adopted the following emergency rule which re-institutes the Tax Equity and Fiscal Reduction Act (TEFRA) provisions for the reimbursement of transplant services. This action is necessary to protect the health and welfare of Medicaid recipients by maintaining an effective organ transplant reimbursement methodology in order to assure that Medicaid recipients are provided these services and to avoid sanctions or penalties from the United States government. It is estimated that this action will decrease expenditures in the Medicaid program by approximately \$2,102,000 for the first year of implementation or approximately \$525,500 for the remainder of state fiscal year 1995.

Emergency Rule

The department repeals the provisions governing organ transplant services contained in the "Hospital Prospective Reimbursement Methodology" rule referenced in the June 20, 1994 *Louisiana Register* (Volume 20, Number 6) and adopts the following provisions to govern Medicaid reimbursement for nonexperimental organ transplant services only which are pre-authorized by the Medicaid program. Payment is

allowable only in accordance with a per diem limitation established for inpatient discharges for organ transplant unit services reflected for a distinct carve out unit. Each type of organ transplant service must be reported as a separate carve-out unit cost. Organ procurement costs shall be included in the carve out and shall be subject to the per diem limitation. The per diem limitation shall be calculated based on costs (routine and ancillary) for such transplant carve-out discharges derived from each hospital's first cost reporting period under the Tax Equity and Fiscal Responsibility Reduction Act cost per discharge limitation (fiscal years ending September 30, 1983 through August 31, 1984). The base period per diem costs for transplant carve out units shall be trended forward using the target rate percentage for hospital inpatient operating costs established by the Health Care Financing Administration (HCFA). For subsequent fiscal years, the limitation shall be inflated by the applicable target percentage. Discharges applicable to these carve-out-units shall be deleted from the total Medicaid discharges prior to calculation of the target rate limitation. Reimbursement for transplant carve-out unit services shall not exceed the per diem limitation and no incentive payment shall be allowed. The TEFRA provisions governing exceptions and adjustments for inpatient hospital services shall also apply to the per diem limitation for the reimbursement of carve units for organ transplant services. The Medicaid share of each transplant unit's costs subject to the per diem limitation shall be included in the total Medicaid reimbursement at the hospital's cost settlement at fiscal year end.

Rose V. Forrest
Secretary

9508#008

DECLARATION OF EMERGENCY

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

Tuberculosis-Infected Individuals

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

Section 13603(b) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66) added to the Social Security Act a new optional eligibility group of tuberculosis (TB)-infected individuals and specifies the TB-related services for the

treatment of persons infected with tuberculosis. The department has witnessed the existence of a significant statewide increase in the number of cases of active tuberculosis. In order to reduce the number of active treatable cases, to prevent spread of this disease and affect its arrest among infected persons and therefore to protect the public from this imminent peril to their health and welfare; the department has adopted the following emergency rule to add Medicaid coverage for TB-infected individuals in accordance with the Social Security Act. This emergency rule establishes the Medicaid Program's eligibility criteria for TB-infected persons and specifies the services which they may receive under the Medicaid Program. It is anticipated that this emergency rule will increase Medicaid expenditures by approximately \$563,790 for SFY 1996.

Emergency Rule

Effective August 1, 1995 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides Medicaid coverage for specific services to eligible individuals who have been diagnosed as or are suspected of being infected with tuberculosis.

The financial eligibility of these persons will be determined in accordance with the income and resource standards for the Supplemental Security Income eligibility group. These individuals must meet all general nonfinancial requirements or conditions of eligibility for Medicaid coverage including compliance with the application, residency and assignment of rights requirements. Medically Needy Spend-down provisions are not applicable to this category of eligibles. Medical eligibility is to be determined by the Medical Eligibility Determination Team regarding their status as TB-infective. Medicaid coverage for medical and health services to this new optional group is limited to the following specific services which must be provided for the purpose of treating an individual's tuberculosis infection.

Allowable services include services to diagnose and confirm the presence of the infection including physician, pharmacy, laboratory and X-ray, rural health clinics, Federally Qualified Health Centers services, outpatient hospital services, clinic services and directly observed therapy. Coverage for outpatient hospital services, clinic and directly observed therapy services is restricted to outpatients only. Medicaid coverage does not include inpatient hospital or nursing facility services or room and board for the new group of eligibles. Current Medicaid recipients who are or who become TB-infected are eligible to receive the directly observed therapy services on an outpatient basis for the treatment of their tuberculosis condition.

The reimbursement for physician, pharmacy, laboratory and x-ray, rural health clinics, Federally Qualified Health Centers, outpatient hospital services and clinic services provided to individuals infected with tuberculosis is made according to established regulations and policy for the reimbursement of these services under the Medicaid Program. The reimbursement for the provision of the new service, directly observed therapy is paid as a TB clinic service to the Office of Public Health at a prospective fee for service rate

established by the Medicaid Program.

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

Rose V. Forrest
Secretary

9508#033

DECLARATION OF EMERGENCY

Department of Labor Office of Workers' Compensation Second Injury Board

Assessment and Timely Filing
(LAC 40:III.107 and 301-307)

Under the authority of the Workers' Compensation Act, particularly at R.S. 23:1021 et seq., R.S. 23:1376 and R.S. 23:1377, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 49:953(B) in particular, the Second Injury Board ("the board") declares that the following rules and regulations are adopted effective August 20, 1995, for a period of 120 days or until the final rule is adopted, whichever occurs first.

The adoption of these rules is necessary to prevent imminent peril to the public health and safety and proposed rules are necessary to allow the board, under Acts 1995 Number 188, effective June 12, 1995, to administer the Second Injury Fund reimbursement program in a timely manner, and in order to do so, the board must assess, notify entities, and collect such assessments before the 1996 calendar year. Without rules and regulations, the assessment cannot be timely made; therefore, time is of the essence to implement the rules for administration of the program under law. These proposed rules are also necessary for compliance with Acts 1995 Number 245, effective June 14, 1995, to require presentation of claims to the board within one year after the first payment of either compensation or medical benefits. The board therefore establishes the following amendment to rules already in effect and new requirements.

The board has initiated rulemaking procedures to finalize the requirements of this rule.

Title 40

LABOR AND EMPLOYMENT Part III. Workers' Compensation Second Injury Board

Chapter 1. General Provisions

§107. Presentation of Claim for Reimbursement from Second Injury Fund, Timely Filing Thereof

Within one year after the first payment of either compensation or medical benefits, the employer or his insurer, whichever of them makes the payments or becomes liable therefor, shall notify the board in writing of such facts and furnish such other information as may be required for the Board to determine if the employer or his insurer is entitled to reimbursement from the Workers' Compensation Second Injury Fund. No employer, insurer, servicing agent or self-insured association shall be reimbursed unless the board is notified within one year from the date of the first payment of either compensation or medical benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Workmen's Compensation Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), amended by the Department of Labor, Workmen's Compensation Second Injury Board, LR 3:49 (December 1977), amended and repromulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 17:179 (February 1991), amended by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 21:

Chapter 3. Assessments

§301. Assessment; Calculation of rate

A. The board shall determine the amount of the total assessment to be collected which shall not exceed 125 percent of the disbursements made from the fund in the preceding fiscal year.

B. The assessment rate shall be calculated by dividing the total assessment by the total workers' compensation benefits as reported to the Office of Workers' Compensation on form LDOL-WC-1000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376 and R.S. 23:1377.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 21:

§303. Assessment; Due Date; Notice

A. Each reporting entity shall be assessed an amount determined by multiplying the assessment rate times the total reported workers' compensation benefits paid by that entity.

B. The board shall set the date that the assessment shall be due and shall provide notice to all entities assessed at least 30 days prior to such due date.

C. An assessment notice shall be prepared and mailed to each entity filing an annual report and for which an assessment is due. The notice shall be sent certified mail, return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376 and R.S. 23:1377.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 21:

§305. Assessments - Failure to Pay; Penalties; Collection

A. Any entity assessed, shall remit the amount of the assessment within 30 days of the date of notice or by the due date set forth in the notice if greater than 30 days. The official United States Postal Department postmark shall be the basis for determining compliance with this requirement.

B. Any entity failing to pay by the due date may be assessed a penalty of 20 percent of the unpaid assessment for each 30 days, or portion thereof, that the assessment remains unpaid.

C. Payments received by the office shall be applied first to penalties assessed and then to the outstanding second injury fund assessment.

D. The assessment and/or penalties imposed pursuant to this section shall be pursued for collection by the procedures used for collection of an open account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376 and R.S. 23:1377.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 21:

§307. Ineligibility for Reimbursement

A. Any entity required by law to make an annual payment or payments into the fund, but which has not made such annual payment or payments, shall be ineligible for reimbursement from the fund for injuries occurring during such period of non-payment of assessment.

B. Except as provided in R.S. 23:1378(A)(7), any entity that is not required by law to make an annual payment or payments into the fund shall be ineligible for reimbursement from the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376 and R.S. 23:1377.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 21:

Alvin J. Walsh
Chairman

9508#015

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Board of Parole**

Quorum for Hearings

The Department of Public Safety and Corrections, Board of Parole, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to implement Act 1011 of the 1995 Regular Legislative Session and adopts the following emergency rule, effective August 10, 1995.

Emergency rulemaking is necessary in order to set forth the quorum necessary to grant or deny parole by the Louisiana Board of Parole.

Three votes are required to grant parole. If the panel is more than three members, a two-thirds vote of the members present and voting is required to grant parole. Two out of three votes are required to revoke parole. If the panel is more than three members, a majority vote of the members present and voting is required to revoke parole.

If two board members vote to continue the case, it shall be continued.

This emergency rule shall remain in effect for 120 days or until a final rule is promulgated, whichever occurs first.

Ronald Bonvillian
Chairman

9508#061

DECLARATION OF EMERGENCY

**Department of Treasury
Board of Trustees of the State
Employees' Retirement System**

General Provisions - Definitions (LAC 58:I.101)

The Board of Trustees of the Louisiana State Employees' Retirement System, at its meeting on July 25, 1995, adopted the following emergency rule concerning the definition of the term "emolument" effective July 1, 1995, to be promulgated in accordance with the provision of the Administrative Procedure Act, R.S. 49:953(B) and pursuant to the authority granted the board at R.S. 11:515.

Emergency adoption is based on the enactment of Act 1025 of the 1995 Regular Session, which amended R.S. 11:403(10) by adding a provision for "emoluments" to be considered part of "earned compensation" without defining the term "emoluments." The act became effective on July 1, 1995, and the agencies are without any direction on what employer or employee contributions to the Louisiana State Employees' Retirement System is required under the new provision of law. To implement Act 1025, and insure that the agencies are consistent in submittal of contributions to members' accounts, emergency adoption is necessary at this time. The permanent rule shall be adopted in accordance with law.

Title 58

RETIREMENT

Part I. State Employees' Retirement System

Chapter 1. General Provisions

§101. Definitions

Emolument—cash compensation, which is subject to federal and state income taxes, paid to an employee in addition to the employees' salary, but shall not include overtime, per diem, differential pay, premium pay, or payment-in-kind.

AUTHORITY NOTE: Promulgated by in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees Retirement System, LR 21:

James O. Wood
Executive Director

9508#001

DECLARATION OF EMERGENCY

Department of Treasury
Board of Trustees of the State
Employees' Retirement System

Purchases of State Service (LAC 58:I.1705)

The Board of Trustees of the Louisiana State Employees' Retirement System, at its meeting on July 25, 1995, adopted the following emergency rule, concerning the acquisition of service credit by a member who was denied such service as a result of dual employment, effective August 1, 1995, to be promulgated in accordance with the provision of the Administrative Procedure Act, R.S. 49:953(B) and pursuant to the authority granted the board at R.S. 11:515.

Emergency adoption is based on the enactment of Act 753 of the 1995 Regular Session which amended R.S. 11:191(B) by adding a provision that would allow an employer to pay one-half of the actuarial cost of a member's purchase of service credit for public employment within the state that the member was otherwise not allowed to make contributions to the retirement system applicable to the employee, but only if the respective retirement system has a policy in effect prior to August 15, 1995. To implement Act 753, and insure that the agencies are given the option to participate in the employees purchase of this service credit this emergency rule is required. The permanent rule shall be adopted in accordance with law.

Title 58 RETIREMENT

Part I. State Employees' Retirement System Chapter 17. Purchases of Service by Reinstated Employees

§1705. Service Credit for Dual Employment

A. Any member who qualifies to purchase service credit under the provisions of R.S. 11:191(B) may purchase the service credit to which he would have been entitled in the system had he been an active contributing member of the retirement system during the full term of his employment by paying to the system an amount that totally offsets the actuarial cost of the receipt of the service credit.

B. The employer for that employee may pay one-half of the actuarial cost of the receipt of the service credit, thereby reducing the member's cost to one-half of the actuarial cost of the service credit. If the employer pays one-half of the actuarial cost for one employee it shall be obligated to pay one-half of the actuarial cost of all employees who qualify to purchase this service credit.

C. The full amount must be received by the system, whether the member is paying the full cost, or the employer is paying one-half and the member one-half, prior to any service credit being attributed to a member's account. The amount must be paid in a lump sum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 21:

James O. Wood
Executive Director

9508#002

DECLARATION OF EMERGENCY

Department of Treasury
Board of Trustees of the State
Employees' Retirement System

Renunciation of Benefit (LAC 58:I.2301)

The Board of Trustees of the Louisiana State Employees' Retirement System, at its meeting on July 25, 1995, adopted the following emergency rule concerning renunciation of benefits, effective August 1, 1995, to be promulgated in accordance with the provision of the Administrative Procedure Act, R.S. 49:953(B) and pursuant to the authority granted the board at R.S. 11:515.

The Board of Trustees of the Louisiana State Employees' Retirement System, at its meeting on November 20, 1991, adopted an emergency rule concerning renunciation of benefits, effective November 20, 1991. That rule expired and no rule has yet completed the normal promulgation process, making this emergency re-enactment necessary. The permanent rule shall be adopted in accordance with law.

Title 58 Retirement

Part I. State Employees' Retirement System Chapter 23. Renunciation of Benefit

§2301. Terms and Conditions of Renunciation of Benefit

Any person eligible to receive, or receiving, a benefit from the Louisiana State Employees' Retirement System may renounce such benefit on the following terms and conditions:

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, LASERS shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall under no circumstances be eligible to receive that benefit.

2. A base benefit may be renounced in whole or in part. An adjustment to a base benefit (cost-of-living adjustment or adjustment for inflation) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. If more than one person is entitled to receive a particular survivor benefit, each person entitled to a portion of the benefit may renounce their entitlement. The person or persons who continue to have an entitlement in that benefit shall receive the benefit to which they are entitled without consideration of the person who becomes ineligible through renunciation. Any adjustment shall be prospective only.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to an executed and effective community property settlement, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:446(E).

6. If the person making the renunciation is legally separated or divorced, but is not subject to an executed and effective community property settlement, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivor beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. If a benefit is renounced by a member prior to receipt by the member of a sum equal to his or her accumulated contributions, the balance of the accumulated contributions will be paid to the member.

9. A renunciation must be made on a form provided by LASERS, and must be executed before a notary public and two witnesses, neither of whom may be a spouse or presently named beneficiary. The renunciation is effective and irrevocable when received by LASERS.

10. A person revoking or participating in renunciation of a benefit must hold LASERS harmless from such action.

11. A renunciation may not be used to terminate active participation in LASERS.

12. Amounts credited to a DROP account cannot be renounced.

13. LASERS makes no representation with respect to the effect of a renunciation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the renunciation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:452 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System, LR 21:

James O. Wood, III
Executive Director

9508003

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Crab Prohibition—Sabine Lake

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set seasons and R.S. 56:6(25)(a) which allows the Wildlife and Fisheries Commission to set seasons and places for the taking of fish and HCR 95 of the 1995 Regular Session of the Louisiana Legislature which directs the commission to adopt rules regulating the use of crab traps in Sabine Lake, the commission hereby adopts the following emergency rule.

The Wildlife and Fisheries Commission does hereby prohibit the taking of crabs by the use of crab traps within the state waters of Sabine Lake for a period of 14 days beginning at sunset on the day prior to opening day of the 1995 Fall Inshore Shrimp Season. All crab traps must be removed from the state waters of Sabine Lake by sunset of the day prior to the opening of the season and may not be returned to those same waters until 6 a.m. of the 15th day of the 1995 Fall Inshore Shrimp Season.

The Wildlife and Fisheries Commission finds that due to the fact that crabbing with crab traps is regulated within the Texas portion of the waters of Sabine Lake, the crab traps within the lake are concentrated within Louisiana's portion of the lake and place an undue hardship on the shrimpers of that area.

Perry Gisclair
Chairman

9508#046

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Crawfishing on the Sherburne Wildlife Management Area (LAC 76:VII.177)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:109 and R.S. 56:761, the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule, effective September 1, 1995.

The commission finds crawfishing similar to that experienced in 1994 will negatively impact reforestation efforts, cause user conflicts and disturb wildlife. It is also possible that the loss of a valuable timber resource might occur. This declaration of emergency will provide for both

commercial and recreational crawfishing without negatively impacting wildlife or timber resources. The commission will take the necessary steps to establish permanent rules for crawfishing on this property by means of normal rule making processes.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§177. Crawfishing on Agricultural Lands Within Sherburne Wildlife Management Area

A. The Department of Wildlife and Fisheries manages, as part of Sherburne Wildlife Management Area (WMA), two agriculture units owned in fee title by the U.S. Army Corps of Engineers. These two tracts are located on the eastern portion of the Wildlife Management Area, near Ramah. Extensive land development in the form of levee impoundments, water control structures, and reforestation is planned on both of these farms to manage favorable habitat for wildlife. Due to the high interest in crawfish harvesting on the above mentioned farms, the following measures will be put in place and enforced to:

1. minimize disturbance to wildlife;
2. protect present and future reforestation efforts;
3. prevent damage to impoundment features;
4. allow utilization of crawfish resources for both recreational and commercial interests in a manner to avoid user conflicts.

B. Persons wishing to harvest crawfish on these farms will be required to obtain a permit from the Department of Wildlife and Fisheries. Each commercial harvester is assessed a \$50 administrative fee and is allowed one helper. Permittee must be present to run traps. All persons harvesting crawfish recreationally from the ages of 16-59 must possess either a fishing license, hunting license, or a Wild Louisiana Stamp. Recreational harvesters are limited to 100 pounds per boat, per day. All crawfish harvesting will be allowed only between the hours of ½ hour before sunrise to ½ hour after sunset. Violation of any restrictions which apply to this permit will result in the permit being canceled in addition to any citations issued for the offense. The production and harvest of crawfish is incidental to water levels maintained to manage for wildlife species. Water levels will not be maintained solely for crawfish harvesting, nor is there any assurance that the water levels controlled for wildlife will yield crawfish. Guidelines are as follows:

1. North Farm. Acreage on this farm totals 800 acres. The entire farm will be impounded for waterfowl management. The eastern 1/3 of the property (289.7 acres) will continue to be farmed. If water conditions preclude farming operations, crawfishing activities will be restricted to watercraft without a motor. The remaining uncropped acreage (410.7 acres) will be open to crawfishing April 1 to July 31. No watercraft with a motor will be allowed. Entry into ponds for crawfishing will be at designated points only (contact the Opelousas office for the appropriate maps).

2. South Farm

a. Acreage on this farm totals 1,600 acres. This farm is divided into four units as follows.

i. Unit 1 - Closed to Crawfishing. Reforestation areas will be off limits to all crawfish harvesting activities to protect tree seedlings.

ii. Unit 2 - Crawfishing Permitted. Watercraft with motor will be allowed in this unit.

iii. Unit 3 - Crawfishing Permitted. No watercraft with a motor will be allowed in this unit for the protection of waterfowl impoundment features.

iv. Unit 4 - Crawfishing Permitted. Watercraft with a motor will be allowed in this unit.

b. Entry into all units of south farm is at designated points only, crawfish harvesting permitted from April 1 to July 31 (contact the Opelousas office for the appropriate maps).

SPECIAL USE PERMIT

SHERBURNE WILDLIFE MANAGEMENT AREA

Name _____

Address _____

Phone _____ Driver's License No. _____ DOB _____

PERIOD OF USE: From: _____, 19__ To: _____, 19__

C. Description. Contact the Opelousas office for appropriate maps.

D. Special Conditions

1. Crawfish harvesting allowed from April 1 to July 31 only.

2. Motorized watercraft allowed in designated areas only.

3. Entry into farm at designated points only.

4. Crawfish harvesting only between ½ hour before sunrise to ½ hour after sunset.

5. Recreational harvesting limited to 100 pounds live crawfish per boat per day. All recreational harvesters from the ages of 16-59 must possess either a fishing license, hunting license, or Wild Louisiana Stamp.

6. Commercial harvesters are assessed a \$50 administrative fee and each permittee is allowed one helper. Permittee must be present to run traps.

7. By signing this permit, permittee agrees to abide by all special regulations. Any violation of WMA rules and regulations will result in cancellation of permit.

8. The production and harvest of crawfish is incidental to water levels maintained to manage for a diversity of wildlife species. Water levels will not be maintained solely for crawfish production and/or harvesting, nor is there any assurance that the water levels controlled for wildlife will yield crawfish.

9. _____ Recreational

_____ Commercial _____ Paid _____

Permit Number _____ Signature: _____

Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109 and R.S. 56:761.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 21:

Perry Gisclair
Chairman

9508#050

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Early Migratory Bird Hunting Seasons and Bag Limits 1995-96

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

The hunting seasons for early migratory birds during the 1995-96 hunting season shall be as follows:

EARLY MIGRATORY BIRD SEASONS

- Dove: Split Season, Statewide, 70 days
September 2 - September 10
October 21 - November 20
December 16 - January 14
Daily bag limit 12, possession limit, 24
- Teal: September 16 - September 24
Daily bag limit 4, possession limit 8, Blue-winged, Green-winged and Cinnamon teal only. Federal and state waterfowl stamps required.
- Rails: Split Season
September 16 - September 24
November 11 - January 10
- King and Clapper: Daily bag limit 15 in the aggregate, possession 30.
- Sora and Virginia: Daily bag and possession limit 25 in the aggregate.
- Gallinules: Split Season
September 16 - September 24
November 11 - January 10
Daily bag limit 15, possession limit 30
- Snipe: November 4 - February 18
Daily bag limit 8, possession limit 16
- Woodcock: November 28 - January 31
Daily bag limit 5, possession limit 10

Shooting Hours:

Teal, Rail, Gallinule, Snipe and Woodcock: one-half hour before sunrise to sunset.

Dove: One-half hour before sunrise to sunset except on September 2-3, October 21-22 and December 16-17 when shooting hours will be 12 noon 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 on September 1, 1995 and extend through sunset on February 28, 1996.

Joe L. Herring
Secretary

9508#045

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Fall Inshore Shrimp Season 1995

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters, the Wildlife and Fisheries Commission does hereby set the 1995 Fall Inshore Shrimp Season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi State Line westward to the eastern shore of South Pass of the Mississippi River; and

Zone 2, that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island; and

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas State Line, all to open at official sunrise Monday, August 21, 1995.

The commission also hereby sets the closing date for the 1995 Fall Inshore Shrimp Season at official sunset Sunday, December 17, 1995 and grants authority to the secretary of the Department of Wildlife and Fisheries to change the closing date if biological and technical data indicate the need to do so or if enforcement problems develop.

Perry Gisclair
Chairman

9508#048

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Grand Bayou Reservoir Bass

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and under the authority of R.S. 56:326.3, the Wildlife and Fisheries Commission, in order to ensure and accelerate the establishment of black bass (*Micropterus spp.*) in John K. Kelly-Grand Bayou Reservoir, located in Red River Parish, does hereby enact the following emergency rule:

Effective September 1, 1995, it shall be unlawful to retain or possess black bass (*Micropterus spp.*) in John K. Kelly-Grand Bayou Reservoir, located in Red River Parish.

The Department of Wildlife and Fisheries has recently (March 23, 1995) stocked 100 adult black bass broodstock of the Florida strain into John K. Kelly-Grand Bayou Reservoir (Red River Parish). This stocking was made pre-spawn in an effort to introduce Florida bass genes into the reservoir at the time of impoundment. This closure will assure that the fish remain in the reservoir for at least two spawning seasons.

Failure to immediately close the reservoir to the retention or possession of black bass constitutes an imminent peril to the public welfare, as this will result in substantial losses to the Florida black bass broodstock.

Perry Gisclair
Chairman

9508#049

7. The Calcasieu and Sabine Lake tonging area will open one-half hour before sunrise on November 1, 1995 and remain open until one-half hour after sunset on March 1, 1996 with the secretary having the authority to extend to compensate for the health closure days.

8. Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action.

Perry Gisclair
Chairman

9508#047

RULES

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Season 1995-96

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:433 and R.S. 56:435.1, notice is hereby given that the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declares:

1. The Public Oyster Seed Grounds not currently under lease and the Sister Lake, Hackberry Bay and Bay Gardene Oyster Seed Reservations will open one-half hour before sunrise on September 6, 1995.

2. The Bay Junope Oyster Seed Reservations will remain closed during the 1995-96 oyster season.

3. A designated sacking only area east of the Mississippi River will open one-half hour before sunrise on September 6, 1995. The sacking only area of the public grounds is generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River Gulf Outlet.

4. Those properly marked areas where shell was deposited for oyster cultch in Sister Lake will be closed to oyster dredging for the 1995-96 oyster season.

5. The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action if necessary, to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amount of shell in seed oyster loads.

6. The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource subsides.

RULE

Board of Elementary and Secondary Education

Bulletin 1196—Food and Nutrition Program (LAC 28:I.913)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended, Revised Bulletin 1196, Food and Nutrition Programs, Policies of Operation. This bulletin is referenced in the Administrative Code, Title 28 as noted below.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §913. School Food Service Standards and Regulations Bulletin 1196

1. Bulletin 1196, Food and Nutrition Programs, Policies of Operation, Revised 1995 is adopted, as revised.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:192(A).

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 21: (August 1995).

This bulletin may be viewed in its entirety in the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802; and in the Bureau of Food and Nutrition Services, State Department of Education, or in the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA 70802.

Carole Wallin
Executive Director

9508#054

RULE

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

**Continuous Monitoring Systems Reporting Requirements
(LAC 33:III.3113)(AQ119)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.3113.C (AQ119).

The reporting requirements for each owner or operator required to install a continuous emission monitor are proposed for amendment to make them consistent with the federal regulations.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 31. Standards of Performance for New
Stationary Sources
Subchapter A. General Provisions and Modifications
§3113. Notification and Recordkeeping**

* * *

[See Prior Text in A-B]

C. Each owner or operator required to install a continuous monitoring system (CMS) or monitoring device shall submit an excess emissions and monitoring systems performance report (excess emissions are defined in applicable subchapters) and/or a summary report form to the administrative authority semiannually, except when: more frequent reporting is specifically required by an applicable subchapter; or the CMS data are to be used directly for compliance determination, in which case quarterly reports shall be submitted; or the administrative authority, on a case-by-case basis, determines that more frequent reporting is necessary to accurately assess the compliance status of the source. All reports shall be postmarked by the thirtieth day following the end of each calendar half (or quarter, as appropriate). Written reports of excess emissions shall include the following information:

* * *

[See Prior Text in C.1-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 Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (August 1995).

**James B. Thompson, III
Assistant Secretary**

9508#062

RULE

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

Fee System (LAC 33:III.217,223)(AQ98)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.Chapter 2 (AQ98).

The rule changes the LAC 33:III.217 Late Payment and LAC 33:III.223 Fee Schedule. The rule provides a fee increase of 5 percent for annual maintenance fee, new permit application, and major and minor modified permit fees. No change in criteria pollutant, air toxic, asbestos demo and certification, and stage II vapor recovery fees were made.

This fee increase is necessary because of new rules and increased surveillance activities associated with the Clean Air Act Amendments of 1990.

These regulations are to become effective upon publication in the *Louisiana Register*.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 2. Rules and Regulations for the Fee System of
the Air Quality Control Programs**

§217. Late Payment

Fees not received within 15 days of the due date will be charged an additional 10 percent per month of the original assessed fee. The late fee shall be calculated starting from the due date indicated on the invoice.

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 14:612 (September 1988), LR 18:706 (July 1992), LR 21: (August 1995).

§223. Fee Schedule Listing

FEE SCHEDULE LISTING						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0010	Reserved					
0020	Bituminous Coal and Lignite Mining	1211	531.00	2652.00	1593.00	531.00
0030	Coal Preparation	1211	1327.00	6633.00	3980.00	1327.00
0040	Crude Oil and Natural Gas Production (100 - 249 T/Yr Source)	1311	106.00	531.00	319.00	106.00
0041	Crude Oil and Natural Gas Production (250 - 499 T/Yr Source)	1311	328.00	1638.00	983.00	328.00
0042	Crude Oil and Natural Gas Production Greater than 500 T/Yr Source	1311	546.00	2184.00	1638.00	546.00
0050	Natural Gas Liquids Per Unit	1321	266.00	1327.00	796.00	266.00
0060	Construction Sand and Gravel	1442	106.00	531.00	319.00	106.00
0070	Industrial Sand	1446	106.00	531.00	319.00	106.00
0080	Salt Mining	1476	1327.00	6633.00	3980.00	1327.00
0090	Sulfur Mining	1477	1327.00	6633.00	3980.00	1327.00
0100	Commercial Rice Milling	2044	531.00	2652.00	1593.00	531.00
0110	Animal Feed Preparation	2048	531.00	2652.00	1593.00	688.00
0120	Cane Sugar, Except Refining Only	2061	1327.00	6633.00	3980.00	1327.00
0130	Cane Sugar Refining per 1,000 Lb/Hr Rated Capacity	2062 MIN.	10.61 1310.00	53.07 6552.00	31.84 3931.00	10.61 1310.00
0140	Cottonseed Oil Mill	2074	266.00	1327.00	796.00	266.00
0150	Soybean Oil Mill	2075	187.00	929.00	558.00	187.00
0160	Animal and Marine Fats and Oil (Rendering) 10,000 or More Ton/ Yr	2077	636.00	3184.00	1910.00	636.00
0170	Animal and Marine Fats and Oil (Rendering) Less than 10,000 Ton/ Yr	2077	319.00	1593.00	956.00	319.00
0180	Shortening, Table Oils, Margarine and Other Edible Fats and Oils	2079	132.00	664.00	398.00	132.00
0190	Malt Beverages	2082	132.00	664.00	398.00	132.00
0200	Coffee Roasting Per 1,000,000 Lb./Yr Rated Capacity	2095 MIN. MAX.	106.11 252.00 6661.00	530.60 1260.00 56779.00 33306.00	318.36 756.00 19984.00	106.11 252.00 6661.00
0210 *NOTE 9*	Sawmill and/or Planing Less than 25,000 Bd Ft/Shift	2421	266.00	1327.00	796.00	266.00
0220 *NOTE 9*	Sawmill and/or Planing More than 25,000 Bd Ft/Shift	2421	796.00	3980.00	2388.00	796.00
0230 *NOTE 9*	Hardwood Mill	2426	477.00	2388.00	1433.00	477.00

FEE SCHEDULE LISTING

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0240 *NOTE 9*	Special Product Sawmill N.E.C.	2429	477.00	2388.00	1433.00	477.00
0250	Millwork with 10 Employees or More	2431	477.00	2388.00	1433.00	477.00
0260	Hardwood Veneer and Plywood	2435	1062.00	5306.00	3184.00	1062.00
0270	Softwood Veneer and Plywood	2436	1062.00	5306.00	3184.00	1062.00
0280	Wood Preserving	2491	266.00	1327.00	796.00	266.00
0290	Particleboard/Waferboard Manufacture (O.S.B.)	2492	1062.00	5306.00	3184.00	1062.00
0300	Hardboard Manufacture	2499	796.00	3980.00	2388.00	796.00
0310	Furniture and Fixtures - A) 100 or More Employees	2511	336.00	1680.00	1008.00	336.00
0320	Furniture and Fixtures - B) More than 10 and Less than 100 Employees	2511	160.00	796.00	477.00	160.00
0330	Pulp Mills Per Ton Daily Rated Capacity	2611 MIN.	3.97 2730.00	19.89 13650.00	11.95 8190.00	3.97 2730.00
0340 *NOTE 1*	Paper Mill Per Ton Daily Rated Capacity	2621 MIN.	3.97 2730.00	19.89 13650.00	11.95 8190.00	3.97 2730.00
0350	Paperboard Mills Per Ton Daily Rated Capacity	2631 MIN.	3.97 2730.00	19.89 13650.00	11.95 8190.00	3.97 2730.00
0360	Paper Coating	2641	160.00	796.00	477.00	160.00
0365	Paper Bag Manufacture	2643	202.00	1008.00	605.00	202.00
0370	Insulation Manufacture	2649	266.00	1327.00	796.00	266.00
0375	Folding Paper Board Boxes Per Packaging Press Line	2651 MIN.	266.00 1310.00	1327.00 6552.00	796.00 3931.00	266.00 1310.00
0380	Corrugated Boxes - Converters (with Boilers)	2653	398.00	1989.00	1195.00	398.00
0381	Corrugated Boxes - Sheet Plant	2653	168.00	840.00	504.00	168.00
0390	Building Board and Tile	2661	1327.00	6633.00	3980.00	1327.00
0400	Commercial Printing - Black and White Per Press	2752 MIN.	159.18 764.00	795.90 3822.00	477.54 2293.00	159.18 764.00
0410	Commercial Printing - Color Per Press	2752 MIN.	265.30 1310.00	1326.51 6552.00	796.95 3931.00	265.30 1310.00
0420 *NOTE 2*	Caustic/Chlorine Per 1,000,000 Lb/Yr Rated Cap Posed on Chlorine	2812 MIN.	2.66 1310.00	13.27 6552.00	7.96 3931.00	2.66 1310.00
0440	Industrial Gases	2813	531.00	2652.00	1593.00	531.00
0450	Inorganic Pigments	2816	531.00	2652.00	1593.00	531.00
0460	Aluminum Sulfate Production Per 100 Ton/Yr Rated Capacity	2819 MIN.	1.32 1092.00	6.64 5460.00	3.97 3276.00	1.32 1092.00
0470	Alumina Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	5.29 1092.00	26.52 5460.00	15.91 3276.00	5.29 1092.00

FEE SCHEDULE LISTING

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0480	Catalyst Mfg. and Cat. Regeneration Per Line	2819	1327.00	6633.00	3980.00	1327.00
0490	Fluosilicates	2819	796.00	3980.00	2388.00	796.00
0500	Industrial Inorganic Chemicals Mfg. N.E.C. Per 1,000,000 Lb./Yr	2819 MIN.	1.32 764.00	6.64 3822.00	3.97 2293.00	1.32 764.00
0510	Industrial Inorganic Acids N.E.C. Per 1,000,000 Lb./Yr Rated Capacity	2819 MIN.	13.27 1310.00	66.33 6552.00	39.80 3931.00	13.27 1310.00
0520	Nitric Acid Manufacture Per 1,000 Ton/Yr Rated Capacity	2819 MIN.	5.29 1310.00	26.52 6552.00	15.91 3931.00	5.29 1310.00
0530	Phosphoric Acid Mfg. Per Ton Daily Rated Cap	2819 MIN.	1.32 1092.00	6.64 5460.00	3.97 3276.00	1.32 1092.00
0540	Sulfuric Acid Manufacture Per Ton Daily Rated Capacity	2819 MIN.	1.32 1092.00	6.64 5460.00	3.97 3276.00	1.32 1092.00
0550	Polyethylene/Polypropolene Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	10.61 1310.00	53.07 6552.00	31.84 3931.00	10.61 1310.00
0560	PVC Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	13.27 1310.00	66.33 6552.00	39.80 3931.00	13.27 1310.00
0570	Synthetic Resins Manufacture N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	13.27 1310.00	66.33 6552.00	39.80 3931.00	13.27 1310.00
0580	Rubber Mfg. Per 1,000,000 Lb/Yr Rated Capacity	2822 MIN.	13.27 1310.00	66.33 6552.00	39.80 3931.00	13.27 1310.00
0585	Paint Manufacturing and Blending	2851	494.00	2468.00	1481.00	494.00
0590	Charcoal Per Oven	2861	266.00	1327.00	796.00	266.00
0600	Gum and Wood Chemicals Per Unit	2861	796.00	3980.00	2388.00	796.00
0610	Styrene Monomer Per 1,000,000 Lb/Yr Rated Capacity	2865 MIN.	5.29 1310.00	26.52 65552.00	15.91 3931.00	5.29 1310.00
0620	Halogenated Hydrocarbons Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	7.96 1310.00	39.80 6552.00	23.88 3931.00	7.96 1310.00
0630	Organic Oxides, Alcohols, Glycols Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	5.29 1310.00	26.52 6552.00	15.91 3931.00	5.29 1310.00
0635	Olefins and Aromatics N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	5.29 1310.00	26.52 6552.00	15.91 3931.00	5.29 1310.00
0640	Ammonia Manufacture Per Ton Daily Rated Capacity	2873 MIN.	2.65 1310.00	13.27 6552.00	7.96 3931.00	2.65 1310.00
0650	Fertilizer Manufacture Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	1.32 764.00	6.64 3822.00	3.97 2293.00	1.32 764.00
0660	Urea and Ureaform Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	2.65 764.00	13.27 3822.00	7.96 2293.00	2.65 764.00
0670	Pesticides Mfg. Per Train	2879	1062.00	5306.00	3184.00	1062.00

FEE SCHEDULE LISTING

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0680	Carbon Black Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2895 MIN.	15.91 1310.00	79.58 6552.00	47.76 3931.00	15.91 1310.00
0690	Chemical and Chemical Prep. N.E.C. Per 1,000,000 Lb/Yr	2899 MIN.	13.27 1092.00	66.33 5460.00	39.80 3276.00	13.27 1092.00
0695	Chemical and Chemical Prep. N.E.C. with Output Less than 1,000,000 Lb/Yr	2899	756.00	3780.00	2268.00	765.00
0700	Drilling Mud-Storage and Distribution	2899	266.00	1327.00	796.00	266.00
0710	Drilling Mud-Grinding	2899	1062.00	5306.00	3184.00	1062.00
0715	Salt Processing and Packaging Per 1,000,000 Lb/Yr	2899 MIN.	00.22 328.00	1.09 1638.00	0.65 983.00	0.22 328.00
0720 *NOTE 3*	Petroleum Refining Per 1,000 BBL/Day Rated Capacity Crude Thruput	2911 MIN.	66.33 1310.00	331.63 6552.00	198.98 3931.00	66.33 1310.00
0730 *NOTE 4*	Asphaltic Concrete Paving Plants Per Ton/Hr Rated Capacity	2951 MIN.	2.00 546.00	9.98 2730.00	5.99 1638.00	2.00 546.00
0740	Asphalt Blowing Plant (Not to be Charged Separately if in Refinery)	2951	796.00	3980.00	2388.00	796.00
0760 *NOTE 5*	Blending, Compounding, or Refining of Lubricants Per Unit	2992	796.00	3980.00	2388.00	796.00
0770	Petroleum Coke Calcining Per 1,000 Ton/Yr Rated Capacity	2999 MIN.	10.61 1310.00	53.07 6552.00	31.84 3931.00	10.61 1310.00
0775	Plastics Injection Moulding and Extrusion Per Line	3079	266.00	1327.00	796.00	266.00
0780	Glass and Glass Container Mfg. Natural Gas Fuel Per Line	3229	398.00	1989.00	1195.00	398.00
0790	Cement Manufacture Per 1,000 Ton/Yr Rated Capacity	3241 MIN.	7.96 1092.00	39.80 5460.00	23.88 3276.00	7.96 1092.00
0800	Glass and Glass Container Mfg. Fuel Oil Per Line	3241	796.00	3980.00	2388.00	796.00
0810	Brick Manufacture Per 1,000 Ton/Yr Rated Capacity	3251 MIN.	3.97 546.00	19.89 2730.00	11.95 1638.00	3.97 546.00
0815	Concrete Products	3272	269.00	1344.00	806.00	269.00
0820 *NOTE 12*	Ready-Mix Concrete	3273	664.00	2016.00	1327.00	664.00
0830	Lime Manufacture Per 1,000 Ton/Yr Rated Capacity	3274 MIN.	7.96 764.00	39.80 3822.00	23.88 2293.00	7.96 764.00
0840	Gypsum Manufacture Per 1,000 Ton/Yr Rated Capacity	3275 MIN.	7.96 764.00	39.80 3822.00	23.88 2293.00	7.96 764.00
0850	Asbestos Products Per Site or Per Production Unit	3292	1593.00	7960.00	4776.00	1593.00
0860	Clay Kiln	3295	319.00	1593.00	956.00	319.00
0870	Rock Crusher	3295	292.00	1460.00	876.00	292.00

FEE SCHEDULE LISTING

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0880	Gray Iron and Steel Foundries A) 3,500 or More Ton/Yr Production	3321	425.00	2122.00	1274.00	425.00
0890	Gray Iron and Steel Foundries B) Less than 3,500 Ton/Yr Production	3321	212.00	1062.00	636.00	212.00
0900	Malleable Iron Foundries A) 3,500 or More Ton/Yr Production	3322	425.00	2122.00	1274.00	425.00
0910	Malleable Iron Foundries B) Less than 3,500 Ton/Yr Production	3322	212.00	1062.00	636.00	212.00
0920	Steel Investment Foundries A) 3,500 or More Ton/Yr Production	3324	425.00	2122.00	1274.00	425.00
0930	Steel Investment Foundries B) Less than 3,500 Ton/Yr Production	3324	212.00	1062.00	636.00	212.00
0940	Steel Foundries Not Elsewhere Classified A) 3,500 or More Ton/Yr Production	3325	425.00	2122.00	1274.00	425.00
0950	Steel Foundries Not Elsewhere Classified B) Less than 3,500 Ton/Yr Production	3325	212.00	1062.00	636.00	212.00
0960	Primary Smelting and Refining of Copper Per 100,000 Lb/Yr Rated Capacity	3331 MIN.	5.29 1310.00	26.52 6552.00	15.91 3931.00	5.29 1310.00
0970	Aluminum Production Per Pot	3334 MIN.	26.52 1310.00	132.66 6552.00	79.58 3931.00	26.52 1310.00
0980	Refining of Non-Ferrous Metals N.E.C. Per 1,000 Lb/Yr Rated Capacity	3339 MIN.	0.03 1310.00	0.25 6552.00	0.15 3931.00	0.03 1310.00
0990	Secondary Smelting of Non-Ferrous Metals Per Furnace	3341 MIN.	796.00 1638.00	3980.00 8190.00	2388.00 4914.00	796.00 1638.00
1000	Wire Manufacture	3357	531.00	2652.00	1593.00	531.00
1010	Aluminum Foundries (Castings) Per Unit	3361	212.00	1062.00	636.00	212.00
1020	Brass/Bronze/Copper-Based Alloy Foundry Per Furnace	3362	266.00	1327.00	796.00	266.00
1030	Metal Heat Treating Including Shotpeening	3398	160.00	796.00	477.00	160.00
1040	Metal Can Manufacture	3411	531.00	2652.00	1593.00	531.00
1050	Drum Manufacturing and/or Reconditioning	3412	796.00	3980.00	2388.00	796.00
1059	Fabricated Structural Steel with 5 or More Welders	3441	531.00	2652.00	1593.00	531.00
1060	Fabricated Plate Work with 5 or More Welders	3443	672.00	3360.00	2016.00	672.00
1070	Electroplating, Polishing and Anodizing with 5 or More Employees	3471	160.00	796.00	477.00	160.00

FEE SCHEDULE LISTING

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
1080	Sandblasting or Chemical Cleaning of Metal: A) 10 or More Employees	3471	796.00	3980.00	2388.00	796.00
1090	Sandblasting or Chemical Cleaning of Metal: B) Less than 10 Employees	3471	398.00	1989.00	1195.00	398.00
1100	Coating, Engraving, and Allied Services: A) 10 or More Employees	3479	292.00	1460.00	876.00	292.00
1110	Coating, Engraving, and Allied Services: B) Less than 10 Employees	3479	160.00	796.00	477.00	160.00
1120	Galvanizing and Pipe Coating Excluding All Other Activities	3479	319.00	1593.00	956.00	319.00
1130	Painting Topcoat Per Line	3479	266.00	1327.00	796.00	266.00
1140	Potting Per Line	3479	160.00	796.00	477.00	160.00
1150	Soldering Per Line	3479	160.00	796.00	477.00	160.00
1160	Wire Coating Per Line	3479	531.00	2652.00	1593.00	531.00
1170	Oil Field Machinery and Equipment	3533	266.00	1327.00	796.00	266.00
1180	Power Chain Saw Manufacture Per Line	3546	398.00	1989.00	1195.00	398.00
1190	Commercial Grain Dryer	3559	319.00	1593.00	956.00	319.00
1195	Electric Transformers Per 1,000 Units/Year	3612 MIN.	123.40 336.00	616.98 1680.00	370.19 1008.00	123.40 336.00
1200	Electrode Manufacture Per Line	3624	372.00	1856.00	1114.00	372.00
1210	Telephone Manufacture Per Line	3661	929.00	4643.00	2786.00	929.00
1220	Electrical Connector Manufacture Per Line	3678	477.00	2388.00	1433.00	477.00
1230	Battery Manufacture Per Line	3691	531.00	2652.00	1593.00	531.00
1240	Electrical Equipment Per Line	3694	319.00	1593.00	956.00	319.00
1245	Automobile, Truck and Van Assembly Per 1,000 Vehicles Per Year Capacity	3711 MIN. MAX	132.66 840.00 26536.00	663.24 4200.00 132678.00	397.94 2520.00 79607.00	132.66 840.00 26536.00
1250	Ship and Boat Building: A) 5001 or More Employees	3732	3980.00	19898.00	11939.00	3980.00
1260	Ship and Boat Building: B) 2501 to 5000 Employees	3732	2652.00	13266.00	7960.00	2652.00
1270	Ship and Boat Building: C) 1001 to 2500 Employees	3732	1327.00	6633.00	3980.00	1327.00
1280	Ship and Boat Building: D) 201 to 1000 Employees	3732	796.00	3980.00	2388.00	796.00
1290	Ship and Boat Building: E) 200 or Less Employees	3732	266.00	1327.00	796.00	266.00

FEE SCHEDULE LISTING

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
1300	Playground Equipment Manufacture Per Line	3949	398.00	1989.00	1195.00	398.00
1310	Grain Elevators: A) 20,000 or More Ton/Yr	4221	848.00	4245.00	2547.00	848.00
1320	Grain Elevators: B) Less than 20,000 Ton/Yr	4221	425.00	2122.00	1274.00	425.00
1330 *NOTE 6*	A) Petroleum, Chemical Bulk Storage and Terminal (over 3,000,000 BBL Capacity)	4226	7960.00	39796.00	23878.00	7960.00
1340 *NOTE 6*	B) Petroleum, Chemical Bulk Storage and Terminal (1,000,000-3,000,000 BBL Capacity)	4226	5306.00	26530.00	15918.00	5306.00
1350 *NOTE 6*	C) Petroleum, Chemical Bulk Storage and Terminal (500,001-1,000,000 BBL Capacity)	4226	2652.00	13266.00	7960.00	2652.00
1360 *NOTE 6*	D) Petroleum, Chemical Bulk Storage and Terminal (500,000 BBL Capacity or Less)	4226	1327.00	6633.00	3980.00	1327.00
1361 *NOTE 8*	Wholesale Distribution of Coke and Other Bulk Goods Per 1,000 Ton/Yr Capacity	4463 MIN.	0.54 1310.00	2.66 6552.00	1.58 3931.00	0.54 1310.00
1362	Crude Oil Pipeline - Facility with Less than 100,000 BBLs Storage Capacity	4612	588.00	2940.00	1764.00	588.00
1363	Crude Oil Pipeline - Facility with 100,000 to 500,000 BBLs Storage Capacity	4612	840.00	4200.00	2520.00	840.00
1364	Crude Oil Pipeline - Facility with Over 500,000 BBLs Storage Capacity	4612	1176.00	5880.00	3528.00	1176.00
1366	Refined Oil Pipeline - Facility with Less than 100,000 BBLs Storage Capacity	4613	504.00	2520.00	1512.00	504.00
1367	Refined Oil Pipeline - Facility with 100,000 to 500,000 BBLs Storage Capacity	4613	672.00	3360.00	2016.00	672.00
1368	Refined Oil Pipeline - Facility with Over 500,000 BBLs Storage Capacity	4613	1008.00	5040.00	3024.00	1008.00
1370	Railcar/Barge/Tank Truck Cleaning Heavy Fuels Only	4742	266.00	1327.00	796.00	266.00
1380	Railcar and Barge Cleaning Other Than Heavy Fuels	4742	1327.00	6633.00	3980.00	1327.00
1390	Tank Truck Cleaning Other Than Heavy Fuels	4742	796.00	3980.00	2388.00	796.00
1400	A) Electric Power Gen. Per MW (Over 0.7 percent S in Fuel)	4911 MIN.	12.33 2512.00	61.69 12558.00	37.01 7535.00	12.33 2512.00
1410 *NOTE 7*	B) Electric Power Gen. Per MW (0.7 percent S or Less in Fuel)	4911 MIN.	7.39 1201.00	37.01 6006.00	22.21 3604.00	7.39 1201.00

FEE SCHEDULE LISTING

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
1420	C) Electric Power Gen. Per MW (Natural Gas Fired)	4911 MIN.	3.72 874.00	18.51 4368.00	11.11 2621.00	3.72 874.00
1430 *NOTE 11*	Natural Gas Comp Per 100 H.P. (Turbines)	4922	5.29	26.52	15.91	5.29
1440 *NOTE 11*	Recip. Nat Gas Comp Per 100 H.P.: A) 50,000 H.P.	4922	23.89	119.40	71.63	23.89
1450 *NOTE 11*	Recip. Nat Gas Comp Per 100 H.P.: B) 20,000 to 50,000 H.P.	4922	26.52	132.66	79.58	26.52
1460 *NOTE 11*	Recip. Nat Gas Comp Per 100 H.P.: C) 5,000 to 20,000 H.P.	4922	31.84	159.18	95.49	31.84
1470 *NOTE 11*	Recip. Nat Gas Comp Per 100 H.P.: D) 2,500 to 5,000 H.P.	4922	37.15	185.69	111.42	37.15
1480 *NOTE 11*	Recip. Nat Gas Comp Per 100 H.P.: E) 1,000 to 2,500 H.P.	4922	39.80	198.98	119.40	39.80
1490 *NOTE 11*	Recip. Nat Gas Comp: F) less than 1,000 H.P.	4922	531.00	1327.00	531.00	531.00
1500 *NOTE 10*	Coal Gassification Per \$100,000 Capital Cost	4925 MIN MAX	5.29 840.00 42479.00	26.52 4200.00 212394.00	15.91 2520.00 127436.00	5.29 840.00 42479.00
1510 *NOTE 10*	Co-Generation Per \$100,000 Capital Cost	4939 MIN. MAX.	5.29 840.00 26536.00	26.52 4200.00 132678.00	15.91 2520.00 79607.00	5.29 840.00 26536.00
1520	Incinerators: A) 1,000 Lb/Hr and Greater Capacity	4953	336.00	1680.00	1008.00	336.00
1521	Incinerators: B) Less than 1,000 Lb/Hr Capacity	4953	109.00	546.00	328.00	109.00
1530	Municipal Incinerators	4953	2652.00	13266.00	7960.00	2652.00
1532	Commercial Hazardous Waste Incinerator Per 1,000,000 BTU Per Hour Thermal Capacity	4953 MIN.	152.88 3360.00	764.40 16800.00	458.64 10080.00	152.88 3360.00
1533	Non Commercial Hazardous Waste Incinerator (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN.	76.44 2184.00	382.73 10920.00	229.32 6552.00	76.44 2184.00
1534	Commercial Hazardous Waste Disp. Facility, N.E.C.	4953	21840.00	109200.00	65520.00	21840.00
1535	Commercial Hazardous Waste Underground Injection (Surface Facilities) Per Location	4953	4368.00	21840.00	13104.00	4368.00
1536	Recoverable/Re-usable Materials Proc. Facility (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN. MAX.	76.44 2184.00 10920.00	382.20 10920.00 54600.00	229.32 6552.00 32760.00	76.44 2184.00 10920.00

FEE SCHEDULE LISTING

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
1540	Steam Gen. Units Per 1000 Lbs/ Hr Steam Cap-Natural Gas or Comb Non-Fossil Fuels	4961 MIN.	1.32 218.00	6.64 1092.00	3.97 655.00	1.32 218.00
1550	Steam Gen. Units Per 1000 Lbs/ Hr Steam Cap-Fuels with 0.7 percent S or Less	4961 MIN.	2.66 546.00	13.27 2730.00	7.96 1638.00	2.66 546.00
1560	Steam Gen. Units Per 1000 Lbs/ Hr Steam Cap-Fuels with More than 0.7 percent S	4961 MIN.	3.97 764.00	19.89 3822.00	11.95 2293.00	3.97 764.00
1570	Cement (Bulk Distribution)	5052	1062.00	5306.00	3184.00	1062.00
1580	Wholesale Distribution of Coal Per 1,000 Ton/Yr Throughput	5052 MIN.	0.25 764.00	1.32 3822.00	.78 2293.00	0.25 764.00
1590	Automobile Recycling Scrap Per 1000 Ton/Yr	5093 MIN. MAX.	10.92 546.00 26536.00	54.60 2730.00 132678.00	32.76 1638.00 79607.00	10.92 546.00 26536.00
1600	Floating Bulk Loader: A) Over 100,000 Ton/Yr Throughput	5153	2652.00	13266.00	7960.00	2652.00
1610	Floating Bulk Loader: B) 100,000 or Less Ton/Yr Throughput	5153	1327.00	6633.00	3980.00	1327.00
1611	Dry Bulk Transfer Derrick Crane Barge Up to 25 percent Annual Grain Transfer	5153	756.00	3780.00	2268.00	756.00
1612	Dry Bulk Transfer Derrick Crane Barge Up No Grain Transfer	5153	504.00	2520.00	1512.00	504.00
1620	Grain Elevators-Terminal Per 10,000 Bu/Yr Throughput	5153 MIN.	0.25 1201.00	1.32 6006.00	.78 3604.00	0.25 1201.00
1630	Wholesale Distribution of Chemicals and Allied Products Per Facility	5161	664.00	2652.00	1989.00	664.00
1640	Petroleum Bulk Plants	5171	54.00	266.00	160.00	54.00
1650	Petroleum Bulk Terminal	5171	531.00	2652.00	1593.00	531.00
1660	Petroleum Bulk Station	5171	54.00	266.00	160.00	54.00
1670	Storage Tank	5171	0.00	531.00	266.00	266.00
1680	Crude Oil Distribution	5172	796.00	3980.00	2388.00	796.00
1690	Tire Recapping Plant	7534	109.00	546.00	328.00	109.00
1700	Chemical Waste Disposal Facility for Non Hazardous Waste	9998	2468.00	12340.00	7404.00	2468.00

* * *

[See Prior Text in 1710-1711]

ADDITIONAL PERMIT FEES AND ADVF FEES		
Fee Number	Fee Description	Amount
2000	Company Name Change and/or Transfer of an Existing Permit	105.00
2010	The Issuance or Denial of Variances and Exemptions	210.00
* * *		
[See Prior Text in 2020-2030]		
2040	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	200.00
2050	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	300.00
2060	Worker Accreditation for Asbestos-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	50.00
2070	Worker Accreditation for Asbestos-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	75.00
* * *		
[See Prior Text in 2080-2810]		

Explanatory Notes for Fee Schedule

* * *

[See Prior Text in Notes 1-10]

Note 11 The maximum annual maintenance fee for categories 1430 through 1490 is not to exceed \$26,536 total for any one gas transmission company.

Note 12 The maximum annual maintenance fee for one location with two or more plants shall be \$1,201.

* * *

[See Prior Text in Notes 13-17]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987, amended LR 14:613 (September 1988), LR 15:735 (September 1989), LR 17:1205 (December, 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1419 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 21: (August 1995).

James B. Thompson, III
Assistant Secretary

9508#043

RULE

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

Fee Schedule (LAC 33:XV.Chapter 25)(NE16)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2101 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Radiation Protection Division Regulations, LAC 33:XV.Chapter 25, (NE16).

This rule increases fees charged by the division by 5 percent. In the interest of equitably distributing the fee increase across the regulated community, some fee restructuring has been performed. A few fees will remain the same, however, the overall effect of the restructuring should be to increase revenue by 5 percent.

This action is necessary for the division to remain mainly self-supporting while continuing to perform those activities mandated by the legislature.

These regulations are to become effective upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 25. Fee Schedule

§2510. Late Payment

Fees not received within 15 days of the due date will be charged an additional 10 percent per month of the original assessed fee. The late fee shall be calculated starting from the due date indicated on the invoice.

APPENDIX A
RADIATION PROTECTION PROGRAM FEE
SCHEDULE

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), amended LR 21: (August 1995).

§2512. Effective Date

The fees prescribed herein shall be effective on August 20, 1995 or upon publication in the *Louisiana Register* as adopted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), amended LR 21: (August 1995).

§2513. Multiple Locations

Those persons possessing licenses or registrations that name multiple locations where sources of radiation are stored, used, or otherwise possessed, shall be subject to an additional fee of 10 percent of the annual maintenance fee for each such location within the state of Louisiana, not to exceed an amount equal to the annual maintenance fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21: (August 1995).

	Application Fee	Annual Maintenance Fee
I. Radioactive Material Licensing		
A. Medical licenses:		
1. Therapy		
a. Teletherapy	555	555
b. Brachytherapy	555	555
2. Nuclear medicine diagnostic only	685	685
3. Nuclear medicine diagnostic/therapy	735	735
4. Nuclear pacemaker implantation	275	275
5. Eye applicators	275	275
6. In-vitro studies or radioimmunoassays or calibration sources	275	275
7. Processing or manufacturing and distribution of radiopharmaceuticals	1080	920
8. Mobile nuclear medicine services	1080	920
9. "Broad scope" medical licenses	1080	920
10. Manufacturing of medical devices/sources	1260	1050
11. Distribution of medical devices/sources	945	785
12. All other medical licenses	305	305
B. Source material licenses		
1. For mining, milling, or processing activities, or utilization which results in concentration or redistribution of naturally occurring radioactive material		
	5460	5460
2. For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powered solid)		
	2730	2730

APPENDIX A
RADIATION PROTECTION PROGRAM FEE
SCHEDULE

	Application Fee	Annual Maintenance Fee
3. For the concentration of uranium from or in phosphoric acid	1365	1365
4. All other specific "source material" licenses	275	275
C. Special nuclear material (SNM) licenses:		
1. For use of SNM in sealed sources contained in devices used in measuring systems	420	420
2. SNM used as calibration or reference sources	275	275
3. All other licenses or use of SNM in quantities not sufficient to form a critical mass, except as in I.A.4, I.C.1, and 2	275	275
D. Industrial radioactive material licenses:		
1. For processing or manufacturing for commercial distribution	5400	4065
2. For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license	920	725
3. For industrial radiography operations performed at temporary jobsite(s) of the licensee	2710	2040
4. For possession and use of radioactive materials in sealed sources for irradiation of materials where the source is not removed from the shield and is less than 10,000 Curies	1365	685

APPENDIX A
RADIATION PROTECTION PROGRAM FEE
SCHEDULE

	Application Fee	Annual Maintenance Fee
5. For possession and use of radioactive materials in sealed sources for irradiation of materials when the source is not removed from the shield and is greater than 10,000 Curies, or where the source is removed from the shield	2710	1355
6. For distribution of items containing radioactive material	1365	1365
7. Well-logging and subsurface tracer studies		
a. Collar markers, nails, etc. for orientation	275	275
b. Sealed sources less than 10 Curies and/or tracers less than or equal to 500 mCi	815	815
c. Sealed sources of 10 Curies or greater and/or tracers greater than 500 mCi but less than 5 Curies	1365	1365
d. Field flood studies and/or tracers equal to or greater than 5 Curies	2050	2050
8. Operation of a nuclear laundry	5410	2710
9. Industrial research and development of radioactive materials or products containing radioactive materials	685	685
10. Academic research and/or instruction	555	555

**APPENDIX A
RADIATION PROTECTION PROGRAM FEE
SCHEDULE**

	Application Fee	Annual Maintenance Fee
11. Licenses of broad scope:		
a. Academic, industrial, research and development, total activity equal to or greater than 1 Curie	1365	1365
b. Academic, industrial, research and development, total activity less than 1 Curie	815	815
12. Gas chromatographs, sulfur analyzers, lead analyzers, or similar laboratory devices	275	275
13. Calibration sources equal to or less than 1 Curie per source	275	275
14. Level or density gauges	420	420
15. Pipe wall thickness gauges	555	555
16. Soil moisture and density gauges	420	420
17. NORM decontamination/maintenance		
a. at permanently designated areas at the location(s) listed in the license	3150	2625
b. at temporary jobsite(s) of the licensee	3150	3150
18. Commercial NORM storage	2625	2625
19. All other specific industrial licenses except as otherwise noted	555	555
20. Commercial NORM treatment	12,600	10,500
E. Radioactive waste disposal licenses:		
1. Commercial waste disposal involving burial	708,750	708,750

**APPENDIX A
RADIATION PROTECTION PROGRAM FEE
SCHEDULE**

	Application Fee	Annual Maintenance Fee
2. Commercial waste disposal involving incineration of vials containing liquid scintillation fluids	5400	2710
3. All other commercial waste disposal involving storage, packaging and/or transfer	2710	2710
F. Civil defense licenses	330	275
G. Teletherapy service company license	1365	1365
H. Consultant licenses		
1. No calibration sources	135	78
2. Possession of calibration sources equal to or less than 500 mCi each	200	135
3. Possession of calibration sources greater than 500 mCi	275	200
4. Installation and/or servicing of medical afterloaders	365	315
II. Electronic Product Registration		
1. Medical diagnostic x-ray (per registration)	89	89
2. Medical therapeutic x-ray (per registration)		
a. below 500 kVp	210	210
b. 500 kVp to 1 MeV (including accelerator and Van deGraaf)	420	420
c. 1 MeV to 10 MeV	630	630
d. 10 MeV or greater	840	840
3. Dental x-ray (per registration)	79	73
4. Veterinary x-ray (per registration)	79	79

APPENDIX A
RADIATION PROTECTION PROGRAM FEE
SCHEDULE

	Application Fee	Annual Maintenance Fee
5. Educational institution x-ray (teaching unit, per registration)	130	79
6. Industrial accelerator (includes Van de Graaf machines and neutron generators)	420	420
7. Industrial radiography (per registration)	210	210
8. All other x-ray (per registration) except as otherwise noted	95	95
III. General Licenses		
A. NORM (Wellhead fee per field shall not exceed \$1575 per operator. Operators reporting contamination by field will be invoiced for all wellheads in the field. Operators reporting contamination by wellhead will be invoiced only for contaminated units.)		
1. 1-5 contaminated wellheads	105	105
2. 6-20 contaminated wellheads	525	525
3. >20 contaminated wellheads	1575	1575
4. Stripper wells-contaminated (\$525 maximum for strippers per field)	105	105
a. 1 to 5 contaminated stripper wells	105	105
b. > 5 contaminated stripper wells	525	525

APPENDIX A
RADIATION PROTECTION PROGRAM FEE
SCHEDULE

	Application Fee	Annual Maintenance Fee
5. NORM locations (other than fields)		
a. gas plants, pipeyards, chemical plant, refinery	315	315
b. warehouses, pipeline, manufacturing plant, NORM equipment storage site, etc.	315	315
6. Interim container storage per NORM Waste Management Plan of an approved location		1050
7. NORM location as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404, not included in III.A.1-6 of this Appendix	105	105
B. Tritium sign	75	0
C. All other general licenses which require registration	105	105
IV. Reciprocal Recognition		
The fee for reciprocal recognition of a license or registration from another state or the NRC is the annual fee of the applicable category. The fee covers activities in the state of Louisiana for one year from the date of receipt.		
V. Shielding Evaluation (per room)		
A. Diagnostic	105	*
B. Therapeutic (below 500 kVp)	158	*
C. Therapeutic (500 kVp to 1 MeV)	260	*
D. Therapeutic (1 MeV to 10 MeV)	365	*
E. Therapeutic (10 MeV or greater)	790	*
F. Industrial and industrial radiography	365	*
VI. Device, Product, or Sealed Source Evaluation		
A. Device evaluation (each)	735	*

**APPENDIX A
RADIATION PROTECTION PROGRAM FEE
SCHEDULE**

	Application Fee	Annual Maintenance Fee
B. Sealed source design evaluation (each)	475	*
C. Update sheet	158	*
VII. Testing		
Testing to determine qualifications of employees, per test administered	135	*
VIII. Nuclear Electric Generating Station		
Located in Louisiana		298,000
Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone - includes area in Louisiana)		216,000
Uranium Enrichment Facility		52,500
IX. La. Radiation Protection Division Laboratory Analysis Fees		
Sample Type	Analysis	Unit Price
A. Air filters:	Gross beta	58
	1. Particulate	165
2. Charcoal cartridge	Gamma/I-131	165
B. Milk	Gamma	175
	I-131	190
C. Water	Gamma	190
	I-131	190
	H-3	70
D. Sediment	Gamma	200
E. Vegetation	Gamma	190
F. Fish	Gamma	200
G. Leak test	Gamma	165
	H-3	70
H. NORM sample		
1. Soil	Gamma	175

Sample Type	Analysis	Unit Price
2. Produced water	Gamma	190
* Fees are charged one time		

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), repromulgated LR 18:956 (September 1992), amended LR 19:624 (May 1993), LR 21: (August 1995).

James B. Thompson, III
Assistant Secretary

9508#044

RULE

**Department of Environmental Quality
Office of Water Resources
Groundwater Protection Division**

Groundwater Fees (LAC 33:XIII.Chapter 13)(GW05)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Groundwater Protection Division regulations, LAC 33:XIII.Chapter 13 (GW05).

The change in LAC 33:XIII.Chapter 13 will increase the fees which are assessed to cover the agency expenses incurred during review, approval, and oversight of assessment and corrective action activities at sites which have ground water contamination.

These regulations are to become effective upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part XIII. Ground Water Protection

Chapter 13. Groundwater Fees

§1305. Applicability

These rules and regulations apply to facilities which are required under Solid Waste regulations or Hazardous Waste regulations to produce annual reports concerning the groundwater condition at their sites, to facilities which have installed groundwater monitoring systems, and to facilities conducting assessment and/or remediation of groundwater contamination (regardless of whether said contamination originated from a regulated waste management unit or from a non-regulated facility) for which the Ground Water Protection Division is providing oversight. These rules and regulations do not apply:

1. to sites over which other divisions or departments, such as the Underground Storage Tanks Division or the Department of Natural Resources, are legitimately exercising oversight and the Ground Water Protection Division does not provide assistance or technical guidance; or

2. to facilities billed under the authority of another part or chapter of Title 33 for the same activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:729 (July 1992), repromulgated LR 21: (August 1995).

§1309. Groundwater Protection Fees

A. Assessment Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating and approving plans and/or reports which assess groundwater contamination and draw conclusions as to the need for further assessment and/or corrective action.

Hazardous Waste Facilities	\$7,875
Solid Waste Facilities	\$5,250
Non-regulated Facilities	\$2,625

B. Corrective Action Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating and approving plans and/or actions to clean-up groundwater that has been contaminated by a facility.

Hazardous Waste Facilities	\$10,500
Solid Waste Facilities	\$7,875
Non-regulated Facilities	\$2,625

C. Annual Report Review Fee. The fee listed below covers the cost of reviewing the groundwater annual report required by both the Hazardous and Solid Waste regulations.

Hazardous Waste Facilities	\$1,050
Solid Waste Facilities	\$262

D. Groundwater Monitoring Systems Installation. The fee listed below covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications.

Each well	\$500
-----------	-------

E. Groundwater Monitoring Systems Surveillance Fee (Annual). The fee listed below covers the cost of inspecting monitoring systems to ensure that they are functioning properly and continue to maintain their integrity. The cost also includes other activities, such as the analysis of boring logs and site geology (cross sections, isopachs, etc.). The maximum fee which can be charged for this category is \$5,000.

Each well	\$250
-----------	-------

F. Facility Inspection Fee (Annual). The fee listed below covers the cost of inspecting the various facilities to ensure compliance with the groundwater protection aspects of the facilities' permits.

Hazardous Waste Facilities	\$1,000
with sampling	\$7,500
Solid Waste Facilities	\$500
with sampling	\$1,500

G. Oversight of Abandonment Procedures. The fee listed below covers the cost of reviewing plans to plug and abandon all nonpermitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Casing pulled	\$100 each well
Casing reamed out	\$200 each well
Casing left in place	\$500 each well

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division in LR 18:729 (July 1992), amended LR 21: (August 1995).

§1311. Method of Payment

All fee payments shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:730 (July 1992), repromulgated LR 21: (August 1995).

§1313. Late Fee

Fees not received within 15 days of the due date indicated on the invoice will be charged an additional 10 percent per month of the original assessed fee. The late fee shall be calculated starting from the due date indicated on the invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:730 (July 1992), amended LR 21: (August 1995).

James B. Thompson, III
Assistant Secretary

9508#064

RULE

Department of Environmental Quality Office of Water Resources Water Pollution Control Division

Water Pollution Control Fee System (LAC 33:IX.1309, 1319)(WP17)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Pollution Control Division regulations, LAC 33:IX.Chapter 13 (WP17).

Louisiana Water Discharge Permit fees are applicable to all water discharge permits and are assessed for the purpose of funding the operation and activities of the Office of Water Resources of the Department of Environmental Quality in accordance with the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.). Annual fee amounts are calculated by multiplying the rating points, computed using the Annual Fee Rating Worksheet, times the rate factor, currently \$170.63 for commercial facilities. This rule amends the Louisiana Water Pollution Control Fee System regulations to incorporate a 5 percent increase to: 1) the commercial rate factor (from \$170.63 to \$179.16) and 2) the maximum annual fee (from \$90,000 to \$94,500) currently assessed to commercial facilities permitted under the Louisiana Water Discharge Permitting System. The amendment also includes revisions of the SIC Code Tables within the regulations in order to more equitably assess fees.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1309. Fee System

* * *

[See Prior Text A]

B. Annual Fee

* * *

[See Prior Text B.1-2]

3. The rate factor shall be \$97.50 per rating point for municipal facilities and \$179.16 per rating point for all other facilities.

4. The annual fee shall be paid each year a facility is subject to regulation under the Louisiana Water Control Law, R.S. 30:20171 et seq. The year shall correspond with the state's fiscal year, July 1 through June 30.

* * *

[See Prior Text B.5-D.4]

E. Minimum and Maximum Annual Fee

1. The minimum annual fee shall be \$227.50.
2. The maximum annual fee shall be \$94,500.

* * *

[See Prior Text F-G]

H. Late Payment Penalty. Fees not received within 15 days of the due date will be charged an additional 10 percent per month of the original assessed fee. The late fee shall be calculated starting from the due date indicated on the invoice.

* * *

[See Prior Text I-M]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), amended LR 21: (August 1995).

§1319. SIC Code Complexity Tables

APPENDIX C
TABLE 1 - NUMERICAL LISTING
COMPLEXITY GROUPS FOR SIC CODES

SIC CODE		EFFLUENT GUIDELINES DIVISION DESIGNATIONS		COMPLEXITY
NO.	SIC TITLE	MAJOR INDUSTRY	INDUSTRIAL SUBCATEGORY	DESIGNATION
* * *				
[See Prior Text]				
1311	OIL & GAS EXTRACTION	CRUDE PETROLEUM & NATURAL GAS	EXPLORATION & PRODUCTION, EXCEPT STORMWATER ONLY	III
1321	NATURAL GAS LIQUIDS	RECOVERING/FRACTIONING	NATURAL GAS	II
1389	OIL & GAS FIELD SERVICES	MISCELLANEOUS	RESERVE PIT TREATERS	IV
* * *				
[See Prior Text]				
2911	PETROLEUM REFINING	PETROLEUM REFINING	PETROLEUM REFINING	V
2950	PAVING & ROOFING MATERIALS	PRODUCTS OF PETROLEUM & COAL	ALL EXCEPT 2951	III
2992	MISCELLANEOUS PRODUCTS OF PETROLEUM & COAL	LUBRICATING OILS & GREASES	REREFINING OF OILS OR GREASES	IV
* * *				
[See Prior Text]				
3199	LEATHER GOODS NEC	LEATHER TANNING & FINISHING	LEATHER GOODS, NEC	II
3200	STONE, CLAY, SHELL, GLASS & CONCRETE PRODUCTS	ALL EXCEPT 3271,3272,3273,3290	ALL EXCEPT ABRASIVE, ASBESTOS, ETC. IN 3290 AND CONCRETE PRODUCTS IN 3271,3272,3273	II
3290	ABRASIVE, ASBESTOS & MISC. NONMETALLIC MINERAL PROD.	RUBBER, PAPER, STEEL, ETC.	ALL EXCEPT 3295	IV
* * *				
[See Prior Text]				
4463	WATER TRANSPORTATION	BULK TERMINALS	COAL & COKE TERMINALS	II
4612	PIPELINES, EXCEPT NATURAL GAS	CRUDE PETROLEUM PIPELINES	CRUDE OIL WITH STORAGE	II
4613	PIPELINES, EXCEPT NATURAL GAS	REFINED PETROLEUM PIPELINES	REFINED OIL WITH STORAGE	II
4911	ELECTRIC SERVICES	STEAM ELECTRIC	COOLING TOWER BLOWDOWN (FOSSIL FUELS PLANTS)	IV
* * *				
[See Prior Text]				
4911	ELECTRIC SERVICES	STEAM ELECTRIC	ONCE-THROUGH COOLING WATER (FOSSIL FUEL PLANTS)	III
4922	NATURAL GAS TRANSMISSION	TRANSMISSION AND STORAGE	NATURAL GAS, COMPRESSORS ONLY	II
4931	ELECTRIC & OTHER SERVICES COMBINED	STEAM ELECTRIC	COOLING TOWER BLOWDOWN (FOSSIL FUEL PLANTS)	IV
* * *				
[See Prior Text]				

APPENDIX C
 TABLE 2 - ALPHABETICAL LISTING (MAJOR INDUSTRY TYPE COLUMN)
 COMPLEXITY GROUP FOR EFFLUENT GUIDELINE INDUSTRIAL SUBCATEGORIES

SIC CODE		EFFLUENT GUIDELINES DIVISION DESIGNATIONS		COMPLEXITY
NO.	SIC TITLE	MAJOR INDUSTRY	INDUSTRIAL SUBCATEGORY	DESIGNATION
* * *				
[See Prior Text]				
2875	FERTILIZERS, MIXING ONLY	AGRICULTURAL CHEMICALS	ALL	II
3200	STONE, CLAY, SHELL, GLASS & CONCRETE PRODUCTS	ALL EXCEPT 3271,3272,3273,3290	ALL EXCEPT ABRASIVE, ASBESTOS, ETC. IN 3290 AND CONCRETE PRODUCTS IN 3271,3272,3273	II
3353	ALUMINUM SHEET, PLATE & FOIL	ALUMINUM FORMING	ALL	V
* * *				
[See Prior Text]				
1311	OIL & GAS EXTRACTION	CRUDE PETROLEUM & NATURAL GAS	EXPLORATION & PRODUCTION, EXCEPT STORMWATER ONLY	III
4612	PIPELINES, EXCEPT NATURAL GAS	CRUDE PETROLEUM PIPELINES	CRUDE OIL WITH STORAGE	II
3600	ELECTRICAL & ELECTRONIC MACHINERY, EQUIP. & SUPPLIES	ELEC. PROD., BATTERY MFG, ETC.	ALL	III
* * *				
[See Prior Text]				
2000	FOOD & KINDRED PRODUCTS	PROCESSING FOOD & BEVERAGES	ALL	II
2950	PAVING & ROOFING MATERIALS	PRODUCTS OF PETROLEUM & COAL	ALL EXCEPT 2951	III
2611	PULP MILLS	PULP, PAPER & PAPERBOARD	ALL	III
* * *				
[See Prior Text]				
4013	RAILROAD TRANSPORTATION	RAILROADS	SWITCHING & TERMINAL ESTAB- LISHMENTS	III
1321	NATURAL GAS LIQUIDS	RECOVERING/FRACTIONING	NATURAL GAS	II
4613	PIPELINES, EXCEPT NATURAL GAS	REFINED PETROLEUM PIPELINES	REFINED OIL WITH STORAGE	II
4953	SANITARY SERVICES	REFUSE SYSTEMS	MUNICIPAL LANDFILLS & LANDFARMS	II
* * *				
[See Prior Text]				
3900	MISCELLANEOUS MANUFAC- TURING INDUSTRIES	TOYS, MUSICAL INSTR, CASKETS	ALL EXCEPT 3911	II
4922	NATURAL GAS TRANSMISSION	TRANSMISSION AND STORAGE	NATURAL GAS, COMPRESSORS ONLY	II
3710	MOTOR VEHICLES & MOTOR VEHICLE EQUIPMENT	TRANSPORTATION EQUIPMENT	ALL	III
* * *				
[See Prior Text]				

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), amended LR 21: (August 1995).

James B. Thompson, III
 Assistant Secretary

9508#065

RULE

Office of the Governor Office of Veterans Affairs Veterans Affairs Commission

Veterans Homes Admission/Fee Requirements (LAC 4:VII.Chapter 9)

The Louisiana Department of Veterans Affairs hereby amends LAC 4:VII.Chapter 9. This Chapter is being revised to establish uniform criteria for admission requirements and care and maintenance fees for all Louisiana State Veterans Homes.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 9. Veterans Affairs

Subchapter D. Louisiana State Veterans Homes

§937. Admission Requirements

A. For admission to a Louisiana State Veterans Home, a veteran must be a resident of the State of Louisiana. State residence is not mandatory if applicant is referred from an in-state United States Department of Veterans Affairs Medical Center, or by a Louisiana Department of Veterans Affairs Veterans Assistance Counselor. The veteran must be recommended by the home administrator and approved for admission by the executive director of the Louisiana Department of Veterans Affairs.

B. The veteran must have served on active military duty 90 days or more during a wartime period, as defined by the United States Department of Veterans Affairs, or 90 days or more consecutive service that either began or ended during a wartime period, or if less than 90 days, discharged due to a disability incurred in the line of duty and must be in receipt of a discharge under honorable conditions for his/her latest period of active military service.

C. The veteran must undergo a medical examination prior to admission and, as a result, it must be confirmed that he/she does not have a communicable disease, does not require medical or hospital care for which the home is not equipped to provide, and does not have violent traits, which may prove dangerous to the physical well-being of the other patients or employees.

D. The veteran must consent to abide by all rules and regulations governing the home and to follow the course of treatment as prescribed by the veterans home medical staff.

E. The veteran or party responsible for his/her financial matters must agree to pay the full patient care and maintenance fee. The Louisiana State Veterans Home Administrator may waive any charge that exceeds the veteran's income.

F. Income, either the availability of or lack of, will not be a factor for admission.

G. The veteran applicant must not have criminal charges pending against him/her.

H. The veteran applicant must not be confined in a correctional facility or treatment facility for the criminally insane.

I. Veteran applicants under judicial/court commitments will not be accepted for admission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21: (August 1995).

§939. Care and Maintenance Fees

A. Care and maintenance fees will be based on total family income. This included income from all sources (Social Security, United States Department of Veterans Affairs pension/compensation, private pension, interest from savings, and/or interest bearing accounts/investments.

B. In no case will the fee charged to the patient be more than the actual cost of care as determined by the executive director of the Louisiana Department of Veterans Affairs and approved by the Veterans Affairs Commission.

C. All income earned as a direct result of the sale of arts and crafts made at the home shall be excluded as countable income when computing care and maintenance charges. However, one-half of such income will be returned to the Recreation and Welfare Fund Account to be used in replenishing supplies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21: (August 1995).

§941. Domiciliary Care and Maintenance Fees

A. If a patient's family income is \$300 or more each month, he/she will be allowed to retain the first \$100 per month for personal spending. All remaining income must be applied to the care and maintenance fees until maximum cost of care is reached.

B. If a patient's family income is less than \$300 each month, he/she will be allowed to retain the first \$60 per month for personal spending. All remaining income will be applied to care and maintenance fees until maximum cost of care is reached.

C. If a patient has a legal dependent(s), he/she will be allowed a deduction from total family income of up to \$300 per month for a spouse and up to \$150 per month for each dependent child before the care and maintenance fee is computed. This same policy will also apply when computing nursing care and maintenance fees.

D. Domiciliary care is defined for the purpose of this section, as all beds approved as domiciliary beds by the United States Department of Veterans Affairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21: (August 1995).

§943. Nursing Care and Maintenance Fees

Patients will be allowed to retain the first \$60 per month for personal spending and appropriate deduction(s) for any legal dependent(s) as specified in §941.C above. All remaining income must be applied to the care and maintenance fee until the maximum care cost is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21: (August 1995).

§945. Mandatory Election for Benefits

Patients must apply for all monetary benefits for which they may be entitled to from both the state and federal government. Any increase as a result thereof must be applied to care and maintenance fees until maximum cost of care is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21: (August 1995).

§947. Fee Payable in Advance after Admission

Care and maintenance fees are payable one month in advance. These fees are due before the 10th of each month. A portion of a month will be prorated according to the number of days stay. Patients will not be charged care and maintenance fees for periods of hospital confinement in excess of 96 hours unless they desire that a bed be held until they return. For periods of leave from the home, care and maintenance fees are payable as arranged with the home administrator or his designee. Patients that are unable to pay charges in advance will be allowed to prorate the advance month fee over a 12-month period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21: (August 1995).

§949. Fees Adjusted

Care and maintenance fees will be adjusted when it has been established that there is a change in the veteran's total family income. The home reserves the right to obtain updated income information from the patient or his/her responsible party (signed authority at admission by patient, and/or

responsible party, or any other source). The home also reserves the right to establish retroactive charges effective to the date a change of income occurs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21: (August 1995).

§951. Additional Fees

In addition to the regular care and maintenance fees collected, if less than the maximum monthly amount, and the patient has an accumulation of funds in excess of \$500 if single, and \$7,500 if married, the patient will be assessed an amount that would bring his care and maintenance fees up to the maximum allowable per month until their funds are reduced to the above stated balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21: (August 1995).

§953. Home Administrator Authority when Incorrect Income Reported

The home administrator, when provided incorrect total family income information, will avail himself of all state laws to recoup all monies that should be made available to the home for care and maintenance fees, retroactive to the time that these monies became available for the patient's use while he/she was residing at a Louisiana State Veterans Home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21: (August 1995).

§955. Unusual Financial Circumstances

A. All patients at a Louisiana Veterans Home who feel they have unusual financial circumstances/hardships can request relief and consideration of a reduction in care and maintenance fees. Under no circumstances will the waiver exceed 25 percent of the established care and maintenance fee, which is based on total family income. Patients may apply for this consideration through the home administrator. The home administrator will forward the request, with an appropriate recommendation, to the executive director of the Louisiana Department of Veterans Affairs for approval or disapproval. In the event the request is denied, an appeal may be submitted to the Veterans Affairs Commission for their consideration. The decision of the Veterans Affairs Commission shall be final.

B. All waivers that are in force will be re-evaluated annually on anniversary month. The home administrator will make a report of re-evaluation with recommendations on each case to the executive director of the Louisiana Department of Veterans Affairs for further consideration. If the waiver is discontinued, an appeal may be submitted to the Veterans Affairs Commission for their consideration. The decision of the Veterans Affairs Commission shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:251.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21: (August 1995).

Ernie P. Broussard
Executive Director

9508#037

RULE

Department of Health and Hospitals Board of Nursing

Community-Based Experiences (LAC 46:XLVII.3539, 3542)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of R.S. 37:911, and R.S. 37:918(B)(K), the State Board of Nursing (board) has amended the Professional and Occupational Standards for:

- (1) procedures for submitting required forms and reports and
- (2) community-based learning experiences, as set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Educational Programs

§3539. Procedures for Submitting Required Forms and Reports

A. - B.1. ...

2. Clinical Agencies

a. The nursing education program submits a "Clinical Facility Survey" form requesting approval of new clinical facilities needed for students' clinical practice areas except as provided for in §3539.B.2.b. Board approval shall be secured in accord with §3529.B prior to the time students are assigned to the new facility.

b. A "Community-Based Agency Review Form" shall be submitted by the nursing education program to the board describing facilities in which a student receives less than 10 percent of the total clinical experience in a given course. This form must be received by the board prior to completion of the educational term in which the experience took place.

B.3. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1150 (September 1993), LR 21: (August 1995).

§3542. Community-Based Learning Experiences

A. "Community-Based Experiences" involve the community as a whole, exclusive of acute care facilities, with nursing care of individuals, families, and groups being provided within the context of promoting and preserving the health of the community.

B. There shall be outcome criteria which clearly state the purpose(s) for the community-based learning experiences selected, within the overall framework of the specific nursing course within the nursing program's curriculum.

C. There shall be qualified faculty available to provide a safe, effective faculty/student/client ratio not to exceed 10 students to one faculty member (10:1). (Reference LAC 46:XLVII.3515.A. "Faculty Body")

D. Nurse faculty shall retain the responsibility for the selection and guidance of student community-based learning experiences and for the evaluation of student performance.

E. Students may not participate in invasive or complex nursing activities in a community setting without the direct supervision of the faculty member or an approved RN preceptor.

1. Students, under the overall direction of a faculty member, may participate in noninvasive or noncomplex nursing activities in structured community nursing settings where RNs are present (e.g., out-patient clinics). Students shall have the skills appropriate to the experiences planned.

2. Students, under the verbal direction of a faculty member, may participate in basic care activities, such as, assessment of vital signs, and collection of data, and assistance with activities of daily living, in community settings where a RN is not present. Students shall have the skills appropriate to the experiences planned.

F. Nonhealth care related agencies utilized for community-based learning experiences for students must have an identifiable sponsoring agency with a clearly defined purpose(s).

G. Preceptors may be utilized for the student participating in community-based learning experiences with the following guidelines:

1. Preceptors shall be selected according to written criteria jointly developed by faculty, nursing administration in the clinical facility, and in accordance with guidelines established by the Board of Nursing.

2. A faculty member shall be available to preceptors while students are involved in a preceptorship experience.

3. The educational program shall maintain a ratio of not more than 12 students to one faculty member for the preceptorship experience.

4. The community-based learning preceptorship experience shall not exceed 50 percent of the total clinical time allotted to community-based clinical experiences within the curriculum.

5. The faculty member shall confer with each preceptor and preceptee at least weekly during said learning experience.

6. The preceptor preferably has earned no less than a BSN and shall have at least two years of practice as a RN with a minimum of one year in the clinical area in which the experience occurs. An individual RN, who does not possess a BSN may be utilized as a preceptor provided said RN has had no less than three years experience as a RN with a minimum of one year in the clinical area in which the experience occurs and has the requisite skills to guide the student to meet the desired course outcomes for the specific clinical experiences.

7. There shall be no more than three preceptees per preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 21: (August 1995).

Barbara L. Morvant
Executive Director

9508#017

RULE

Department of Health and Hospitals Board of Nursing

Continuing Education; Nursing Practice Requirements (LAC 46:XLVII.3356)

(Editor's Note: A portion of the following rule, which appeared on pages 267 through 268 of the March 20, 1995 Louisiana Register, is being republished to include text which was inadvertently omitted in Subsections D through K of §3356.)

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General Rules

Subchapter D. Registration and Licensure

§3356. Continuing Education/Nursing Practice

A. - C.3. ...

D. Continuing Education Courses: Continuing education course credit may be given for the following continuing education course/programs:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918(E)(K) and R.S. 37:920(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 16:1058 (December 1990), repromulgated LR 17:58 (January 1991), amended LR 21:267 (March 1995), repromulgated LR 21: (August 1995).

Barbara Morvant
Executive Director

9508#018

RULE

Department of Health and Hospitals Board of Nursing

Licensure by Examination and Endorsement (LAC 46:XLVII.3349-3351)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of R.S. 37:911 and R.S. 37:918 (A)(B)(E)(K), the State Board of Nursing (board) has amended the Professional and Occupational Standards for licensure as a registered nurse by examination and endorsement as set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General Rules

Subchapter D. Registration and Licensure

§3349. Licensure by Examination

* * *

B. Requirements for eligibility to take the NCLEX-RN in Louisiana include:

1. completion of a nursing education program approved by the board, or completion of a nursing education program located in another country or approved by another board of nursing which program meets or exceeds the educational standards for nursing education programs in Louisiana.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920, 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended LR 11:348 (April 1985), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1572 (December 1993), LR 21: (August 1995).

§3351. Licensure by Endorsement

A. Requirements of the applicant for licensure by endorsement include:

1. must be duly licensed under the laws of another state, territory, or country; and

2. must have successfully completed a nursing education program approved by the board, or must have successfully completed a nursing education program located in another country or approved by another board of nursing which program meets or exceeds the educational standards for nursing education programs in Louisiana; and

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920, 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1572 (December 1993), LR 21: (August 1995).

Barbara L. Morvant
Executive Director

9508#016

RULE

**Department of Health and Hospitals
Office for Citizens with Developmental Disabilities**

**Contracted Vocational and Habilitative Services
(LAC 48:IX.107)**

(Editor's Note: A portion of the following rules, which appeared on pages 685 through 693 of the July 20, 1992 Louisiana Register, is being republished to correct a codification error.)

Title 48

PUBLIC HEALTH—GENERAL

**Part IX. Mental Retardation/Developmental
Disabilities Services**

**Chapter 1. Contracted Vocational and Habilitative
Services**

§107. Programmatic Standards

A. - B.2.k. ...

3. (MS) recommendations for work/vocational training are contained in the Individualized Program Plan (IPP) and are based on the outcome of the assessment.

C. - E.21.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28.380 through 444.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Mental Retardation/Developmental Disabilities, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:691 (July 1995), repromulgated, LR 21: (August, 1995).

Rose V. Forrest
Secretary

9508#006

RULE

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

Sanitary Code—Seafood (Chapter IX)

The Department of Health and Hospitals, Office of Public Health hereby amends Chapter IX of the State Sanitary Code, Section 9:051 and 9:052. These rule changes are necessary in order to provide an increased level of assurance that shell-stock oysters, clams and mussels are refrigerated (after harvest) in a timely manner, and that they are not eaten raw after an appropriate shelf life (14 days). Adoption of these rules is necessary for this program to be in compliance with the latest recommendations of the Interstate Shellfish Sanitation Conference.

Sections 9:501 and 9:502 are amended as follows:

**Chapter IX
Seafood**

9:051 TAGS — In order that information may be available to inspectors and others with reference to the origin of shell-stock oysters, clams and mussels from all areas, all containers holding shell-stock shall be identified by a tag or label, form and substance of which shall be approved by the state health officer, and the secretary of the Department of Wildlife and Fisheries.

9:051-1 The initial tagging of the shell-stock shall be performed by the harvester before the shell-stock are removed from the harvester's boat. In the event that shell-stock are harvested from more than one growing area on a given day, the shell-stock shall be sacked and tagged before leaving the growing area from which the shell-stock were harvested. The harvester's tags shall contain legible information arranged in the specific order as follows:

A. a place shall be provided where the dealer's name, address and certification number assigned by the Office of Public Health, Seafood Sanitation Program is added;

B. the harvester's identification number assigned by the Department of Wildlife and Fisheries;

C. the date of harvesting;

D. the most precise identification of the harvest site or aquaculture location as practicable;

E. type and quantity of shellfish; and

F. the following additional statements shall appear on each tag in bold capitalized type:

(1) THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS.

(2) THIS PRODUCT SHOULD NOT BE CONSUMED RAW AFTER 14 DAYS FROM THE DATE OF HARVEST; BEYOND THIS 14-DAY PERIOD, THIS PRODUCT SHOULD BE THOROUGHLY COOKED.

(3) AS IS THE CASE WITH CONSUMING OTHER RAW ANIMAL PROTEIN PRODUCTS, THERE IS A RISK ASSOCIATED WITH CONSUMING RAW OYSTERS, CLAMS AND MUSSELS. IF

YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH, OR BLOOD OR HAVE IMMUNE DISORDERS, DO NOT EAT THESE PRODUCTS RAW. RETAILERS PLEASE ADVISE CUSTOMERS.

9:051-2 PENALTIES — Shell-stock not tagged in accordance with the aforementioned requirements shall be subject to seizure and destruction.

9:052 REFRIGERATION OF SHELL-STOCK OYSTERS, CLAMS AND MUSSELS — Shell-stock shall be placed under mechanical refrigeration at a temperature not to exceed 45°F within two hours after docking of the harvesting vessel, and shall be maintained at or below that temperature throughout all levels of commerce. Shell-stock shall be transported on land via mechanically refrigerated trucks at an internal air temperature not exceeding 45°F. During the time period April 1 through November 30, all shell-stock fishermen without effective on-board mechanical refrigeration capability shall be responsible for having their shell-stock delivered to dockside and under refrigeration within 14 hours from time of harvest and no later than 9 p.m. each day. The use of ice as a means of refrigerating shell-stock shall be prohibited.

If fishermen elect to harvest shell-stock for bedding purposes during the April 1 through November 30 time period, the 14-hour harvesting limitation may be waived under the following conditions:

A. that the sacking or containerizing of shellfish shall be prohibited during the time period when shell-stock are harvested for bedding purposes.

B. that the storage of empty sacks or other shellfish containers aboard an authorized harvesting vessel shall be prohibited during the time period when shellfish are harvested, transported and bedded.

9:052-1 PENALTIES — Shell-stock not refrigerated in accordance with the aforementioned requirements shall be deemed adulterated and shall be subject to seizure and destruction or disposal.

* * *

Rose V. Forrest
Secretary

9508#039

RULE

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

Maternal and Child Health Block Grant

The Department of Health and Hospitals (DHH) is applying for Maternal and Child Health (MCH) Block Grant Federal Funding for FY 1995-96 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the *Federal Register*, Vol. 47, No. 129, Tuesday, July 6, 1982, pages 29472-29493. DHH will continue to administer programs funded under the

MCH Block Grant in accordance with provisions set forth in Public Law 97-35 and the federal regulations. The Office of Public Health is the office responsible for program administration of the grant.

Rose Forrest
Secretary

9508#038

RULE

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

Facility Need Review (LAC 48:I.12501-12505)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule to provide for Facility Need Review as authorized by R.S. 40:2116 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act.

The department repeals, in their entirety, its existing regulations providing for facility need review (LAC 48:I.12501 through 12505) which were initially adopted on January 20, 1991 and all subsequent amendments thereto as published in the *Louisiana Register*, and adopts the following regulations to provide for facility need review. The department is revising §12502, Determination of Bed Need, in order to allow for the addition of beds to qualified nursing homes when these homes are being rebuilt, and also in order to lessen the rate of bed expansion based on nursing facility high occupancy. Revisions are being made to the existing rule to establish uniformity across program areas, and to properly codify the Chapter for inclusion in the Louisiana Administrative Code.

Title 48

PUBLIC HEALTH - GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

A. General Information

1. The Department of Health and Hospitals will conduct a Facility Need Review (FNR) for nursing facility (NF) beds, including skilled nursing facility (SNF) beds, and Intermediate Care Facility beds for the Mentally Retarded (ICF-MR), to determine if there is a need for additional beds to enroll in the Title XIX Program.

2. CFR 42 Part 442.12(d) allows the Medicaid agency to refuse to execute a provider agreement if adequate documentation showing good cause for such refusal has been compiled (i.e., when sufficient beds are available to serve the

Title XIX population). The Facility Need Review Program will review applications for additional beds/facilities to determine whether good cause exists to deny participation in the Title XIX Program to prospective providers of Nursing Facility Services (Skilled, IC-I and IC-II), and ICF-MR services.

3. Applications are submitted to: Department of Health and Hospitals, Bureau of Health Services Financing, Facility Need Review Program, P.O. Box 91030, Baton Rouge, LA 70821-9030. Telephone: (504) 342-3881.

B. Definitions. When used in this rule the following terms and phrases shall have the following meanings unless the context requires otherwise:

Applicant—the person who is developing the proposal for purposes of enrolling the facility and/or beds in Medicaid. See definition of *Person*.

Applicant Representative—the person specified by the applicant on the application form to whom written notifications are sent relative to the status of the application during the review process.

Approval—a determination by the department that a proposal meets the criteria of the Facility Need Review Program for purposes of participating in Medicaid.

Approved—beds and/or facilities which are grandfathered in accordance with the grandfather provisions of this program and/or beds approved in accordance with the Facility Need Review Program.

Community Home—a type of community residential facility which has a capacity of eight or fewer beds.

Department—the Department of Health and Hospitals in the state of Louisiana.

Department of Health and Hospitals (DHH)—the agency responsible for administering the Medicaid Program in Louisiana.

Disapproval—a determination by the department that a proposal does not meet the criteria of the Facility Need Review Program and that the proposed facility/beds may not participate in Medicaid.

Enrollment in Medicaid—execution of a provider agreement with respect to reimbursement for services provided to Title XIX eligibles.

Facility Need Review—a review conducted for Nursing Facility (NF) beds (including skilled beds, IC-I and IC-II beds), and ICF-MR beds, to determine whether there is a need for additional beds to enroll and participate in the Medicaid Program.

Group Home—a type of community residential facility which has a capacity of nine to 15 beds.

HCFA—Health Care Financing Administration.

Health Standards Section—the Section in the Bureau of Health Services Financing, Office of the Secretary, which licenses health care facilities, certifies those applying for participation in the Medicaid (Title XIX) and Medicare (Title XVIII) Programs, conducts surveys and inspections, and enrolls Title XIX providers.

Intermediate Care - Level I (IC-I)—a level of care within a Nursing Facility (NF) which provides basic nursing services

under the direction of a physician to persons who require a lesser degree of care than skilled services, but who need care and services beyond the level of room and board. Services are provided under the supervision of a registered nurse seven days a week during the day tour of duty with licensed nurses 24 hours a day.

Intermediate Care - Level II (IC-II)—a level of care within a Nursing Facility (NF) which provides supervised personal care and health related services, under the direction of a physician, to persons who need nursing supervision in addition to help with personal care needs. Services are provided under the supervision of a registered nurse seven days a week during the day tour of duty with licensed nurses 24 hours a day.

Intermediate Care Facility for the Mentally Retarded (ICF-MR)—a facility which provides mentally retarded residents with professionally developed individual plans of care, supervision, and therapy, to attain or maintain optimal functioning.

Medicaid Program—the program administered in accordance with Title XIX of the Social Security Act.

Medicaid State Plan—the plan under which the Department of Health and Hospitals administers the Medicaid Program.

Notification—is deemed to be given on the date on which a decision is mailed by the Facility Need Review Program or a hearing officer.

Nursing Facility—an institution which:

- a. is primarily engaged in providing to residents:
 - i. skilled nursing care and related services for residents who require medical or nursing care;
 - ii. rehabilitation services for the rehabilitation of injured, disabled, or sick persons; or
 - iii. on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities; said institutional facilities are those facilities which are not primarily for the care of mental diseases;
- b. has in effect a transfer agreement with one or more hospitals.

Person—an individual or other legal entity.

Program—the Facility Need Review Program.

Review Period—the period of time in which the review is conducted.

Secretary—the secretary of the Department of Health and Hospitals.

Skilled Nursing Care—a level of care within a Nursing Facility (NF) which provides intensive, frequent, and comprehensive nursing care and/or rehabilitation services ordered by and under the direction of a physician. Services are provided under the supervision of a registered nurse seven days a week during the day tour of duty with licensed nurses 24 hours a day. Skilled beds are located in nursing facilities and in "distinct parts" of acute care hospitals. Facility Need Review policies governing skilled beds in nursing facilities

apply to Title XIX Skilled beds in hospitals; in order to be enrolled in Title XIX, skilled beds in hospitals must be approved through Facility Need Review. Skilled care is also referred to as "extended care".

C. Department Designation and Duties

1. The department shall be responsible for reviewing proposals for facilities and beds by health care providers seeking to participate in Medicaid; the secretary or his designee shall issue a decision of approval or disapproval.

2. The duties of the department under this program are including, but are not limited to, the following:

a. to determine the applicability of these provisions to all requests for approval to enroll facilities or beds in the Medicaid Program;

b. to review, determine and issue approvals or disapprovals for proposals determined to be subject to these provisions;

c. to adopt and promulgate such rules and regulations as may be necessary to implement the provisions of this program pursuant to the Administrative Procedure Act; and

d. to define the appropriate methodology for the collection of data necessary for the administration of the program.

D. Scope of Coverage. The Facility Need Review Program reviews proposals for increases in the number of beds eligible to participate in Medicaid. The following types of facilities/beds are reviewed:

1. nursing facilities (includes skilled, IC-I and IC-II beds)

2. intermediate care facilities for the mentally retarded

E. Grandfather Provision. An approval shall be deemed to have been granted under this program without review for nursing facilities (NF'S), and ICF-MR facilities and/or beds described below:

1. all valid Section 1122 approved health care facilities/beds;

2. all valid approvals for health care facilities/beds issued under the Medicaid Capital Expenditure Review Program prior to the effective date of this program.

3. all valid approvals for health care facilities issued under the Facility Need Review Program.

4. all nursing facility beds which were enrolled in Medicaid as of January 20, 1991.

F. Revocation of Approvals/Availability of Beds for Title XIX Recipients

1. Nursing facility beds which are added to existing, licensed facilities must be enrolled in the Title XIX Program within one year of the date of approval by the Facility Need Review Program. New nursing facilities which are approved to be constructed must be enrolled in the Title XIX Program within 24 months of the date of the approval. An extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g., acts of God). Inappropriate zoning is not a basis for extension.

2. Group and community home beds for the mentally retarded must be enrolled in the Title XIX Program within nine months of the date of approval by the Facility Need

Review Program. A one-time 90-day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g., acts of God). Inappropriate zoning is not a basis for an extension.

3. If the beds are not enrolled in the Title XIX program within the time limits specified in F.1 and F.2 of this Section, the approval will automatically expire.

4. When the Office for Citizens with Developmental Disabilities advises that a group or community home bed for the mentally retarded/developmentally disabled which was approved for Title XIX reimbursement to meet a specific disability need identified in a Request for Proposals (RFP) issued by the department, is not being used to meet the need identified in the RFP, based on the facility serving a Medicaid recipient in the bed without prior approval from the Office for Citizens with Developmental Disabilities, approval of the bed shall be revoked.

5. Approvals shall be revoked when a facility's license is revoked, or not renewed, or denied, unless the facility obtains a license within 120 days from the date of such revocation, non-renewal, or denial.

6. Approvals shall be revoked when a facility's provider agreement is terminated unless, within 120 days thereof, the facility enters into a new provider agreement.

7. Beds may not be disenrolled, except as provided under the alternate use policy and during the 120-day period to have beds re-licensed or re-certified. The approval for beds disenrolled, except as indicated, will automatically expire.

8. Relocation of a portion of a nursing facility's approved beds is prohibited without the surrender of those approved beds not relocated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21: (August 1995).

§12503. Determination of Bed Need

A. Community and Group Home Beds for the Mentally Retarded

1. The service area for a proposed or existing facility is designated as the department's Administrative Region in which the facility or proposed facility is or will be located. The department's Administrative Regions, and the parishes which comprise these regions, are as follows:

a. Region I: Jefferson, Orleans, Plaquemines, and St. Bernard;

b. Region II: Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge, and West Feliciana;

c. Region III: Assumption, Lafourche, St. Charles, St. James, St. John, St. Mary, and Terrebonne;

d. Region IV: Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermilion;

e. Region V: Allen, Beauregard, Calcasieu, Cameron, and Jefferson Davis;

f. Region VI: Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, and Winn;

g. Region VII: Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster;

h. Region VIII: Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll; and

i. Region IX: Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington;

2. The beds and population of the service area where the facility is located, or is proposed to be located, will be considered in determining need for the facility/beds. Beds which are counted in determining need for community and group homes are approved licensed beds, and approved but not licensed beds, as of the due date for a decision on an application.

3. Data sources to be used include information compiled by the Facility Need Review Program, and the middle population projections recognized by the State Planning Office as official projections. Population projections to be used are those for the year in which the beds are to be enrolled in Medicaid.

4. In accordance with the department's policy of least restrictive environment, there is no currently identified need for additional facilities with 16 or more beds. Therefore, applications for facilities of 16 or more beds shall not be accepted for review, and applications to increase existing facilities to 16 or more beds shall not be accepted for review.

5. At the present time, the recommended bed-to-population ratio for community and group homes has been achieved. However, special needs and circumstances may arise which the department may consider as indicators of need for additional beds, such as occupancy rates, availability and accessibility of clients in need of placements, patient origin studies, and requests for special types of beds or services.

a. For service areas in which average annual occupancy for the four most recent quarters (as reported in the MR-2) is in excess of 93 percent, the department may review the census data, utilization trends, and other factors described in Subsection A.5 of this Section, to determine if additional beds are needed.

b. If the department determines that there is a need for beds in a parish with average annual occupancy in excess of 93 percent, a Request for Proposals (RFP) will be issued. The RFP will indicate the region in need of beds, the number of beds needed, the date by which the beds are needed to be available to the target population (enrolled in Medicaid), and the factors which the department considers relevant in determining the need for the additional beds. The RFP will specify the MR-2 on which the determination of need is based.

c. The RFP will be issued through the press (AP, UPI, nearest major metropolitan newspaper), and will specify the dates during which the department will accept applications.

d. No applications will be accepted under these provisions unless the department declares a need and issues a Request for Proposals. Applications will be accepted for expansion of existing facilities and/or for the development of new facilities.

e. Applications will be accepted for a period to be specified in the RFP. Once submitted, an application cannot be changed; additional information will not be accepted.

f. The department will review the proposals and independently evaluate and assign points to each of the following 10 items on the application for the quality and adequacy of the response to meet the need of the project:

- i. work plan for Medicaid certification;
- ii. availability of the site for the proposal;
- iii. relationship or cooperative agreements with other health care providers;
- iv. accessibility to other health care providers;
- v. availability of funds; financial viability;
- vi. experience and availability of key personnel;
- vii. range of services, organization of services and program design;
- viii. methods to achieve community integration;
- ix. methods to enhance and assure quality of life; and
- x. plan to ensure client rights, maximize client choice and family involvement.

g. A score of 0-20 will be given to the applicant's response to each item using the following guideline:

- | | |
|------|-----------------------------|
| 0 = | inadequate response |
| 5 = | marginal response |
| 10 = | satisfactory response |
| 15 = | above average response; and |
| 20 = | outstanding response |

h. If there is a tie for highest score for a specific facility/beds for which the department has requested proposals, a comparative review of the top scoring proposals will be conducted. This comparative review will include prior compliance history. In the case of a tie, the department will make a decision to approve one of the top scoring applications based on comparative review of the proposals.

i. If no proposals are received which adequately respond to the need, the department may opt not to approve an application.

j. At the end of the 90-day review period, each applicant will be notified of the department's decision to approve or disapprove the application. However, the department may extend the evaluation period for up to 60 days. Applicants will be given 30 days from the date of receipt of notification by the department in which to file an appeal (refer to §12505.C, Appeal Procedures).

k. The issuance of the approval of the proposal with the highest number of points shall be suspended during the 30-day period for filing appeals and during the pendency of any administrative appeal. All administrative appeals shall be consolidated for purposes of the hearing.

l. Proposals approved under these provisions are bound to the description in the application with regard to type of beds and/or services proposed as well as to the location as defined in the Request for Proposals made by the department. Approval for Medicaid shall be revoked if these

aspects of the proposal are altered. Beds to meet a specific disability need approved through this exception must be used to meet the need identified.

m. Prior approval of all Medicaid recipients for admission to facilities in beds approved to meet a specific disability need identified in a Request for Proposals issued by the department is required from the Office for Citizens with Developmental Disabilities before admission.

6. Exception for beds approved from downsizing large residential ICF-MR facilities (16 or more beds):

a. a facility with 16 or more beds which voluntarily downsizes its enrolled bed capacity in order to establish a group or community home will be exempt from the bed need criteria. Beds in group and community homes which are approved under this exception are not included in the bed-to-population ratio or occupancy data for group and community homes approved under the Facility Need Review Program;

b. any enrolled beds in the large facility will be disenrolled from the Title XIX Program upon enrollment of the same number of group or community home beds;

c. state-owned facility beds downsized to develop community or group home beds not owned by the state:

i. when the department intends to downsize the enrolled bed capacity of a state-owned facility with 16 or more beds in order to develop one or more group or community home beds not to be owned by the state, a Request for Proposals (RFP) will be issued. The RFP will indicate the parish or region where the beds are to be developed, the number of beds to be developed, and the date by which the beds are to be made available to the target population (enrolled in Medicaid);

ii. the RFP will be issued and beds made available using methods described in Subsection A.5.c through m of this Section;

d. for private facility beds downsized to privately owned group or community homes, these facilities should contact the regional Office for Citizens with Developmental Disabilities, in the region where the proposed community or group home beds will be located. These proposals do not require Facility Need Review approval.

B. Nursing Facilities/Beds

1. Service Area. The service area for proposed or existing nursing facilities/beds is the parish in which the site is located. Exceptions are the parishes of Ascension, Iberville, Plaquemines and St. John, each of which is composed of two separate service areas as divided by the Mississippi River.

2. Nursing facility beds located in "distinct parts" of acute care general hospitals must be approved through Facility Need Review in order to be enrolled in Medicaid.

3. In reviewing the need for beds, all proposed beds shall be considered available as of the projected date of the project. The Facility Need Review Program does not recognize the concept of "phasing-in" beds, whereby an applicant provides two or more opening dates.

4. For reviews in which the bed to population ratio is a factor, the bed inventory which will be used is that which is current on the date on which the complete application is received. The bed to population ratio will be recomputed during the review period when the report is incorrect due to an error by the department.

5. For reviews in which utilization is a factor, the occupancy report which will be used is that which is current on the date on which the complete application is received. The occupancy rate will be recomputed during the review period when the report is incorrect due to an error by the department.

6. In determining occupancy rates of nursing facilities/beds:

a. beds for which occupancy shall be based shall include nursing facility beds (skilled, IC-I and IC- II) which are enrolled in Title XIX;

b. each licensed bed shall be considered as available for utilization for purposes of calculating occupancy;

c. a bed shall be considered in use, regardless of physical occupancy, based on payment for nursing services available or provided to any individual or payer through formal or informal agreement.

7. The beds and population of the service area where the facility is located, or is proposed to be located, will be considered in determining need for the facility/beds. Beds which are counted in determining need for nursing facilities/beds are approved licensed beds, and approved but not licensed beds, as of the due date for decision on an application.

8. Data sources to be used include information compiled by the Facility Need Review Program, and the middle population projections recognized by the State Planning Office as official projections. Population projections to be used are those for the year in which the beds are to be enrolled in Medicaid.

9. In order for additional beds/facilities to be added in a service area, the bed-to-population ratio for nursing facility beds shall not exceed 65 Medicaid approved beds per 1,000 elderly population in a service area, and average annual occupancy for the four most recent quarters (as reported in the LTC-2) shall exceed 95 percent in the service area. Exceptions for areas with high occupancy are described below:

a. a Medicaid enrolled nursing facility which maintains 98 percent average annual occupancy of its enrolled beds for the four most recent quarters (as reported in the LTC-2) may apply for approval for additional beds to be enrolled in the Medicaid Program:

i. in order for an application to be considered, all approved beds in the facility must be enrolled in Title XIX;

ii. in order for a facility to reapply for additional beds, all approved beds must be enrolled in Title XIX for the four most recent quarters, as reported in the LTC-2;

iii. the number of beds for which application may be made shall not exceed 10 beds;

iv. in determining occupancy rates for purposes of this exception, only an adjustment of one additional day after the date of death, for the removal of personal belongings, shall be allowed, if used for that purpose. This adjustment shall not be allowed if nursing services available or provided to another individual are paid for through formal or informal agreement in the same bed for that time period;

v. in determining occupancy rates, more than one nursing facility bed enrolled in Title XIX shall not be considered occupied by the same resident, regardless of payment for nursing services available or provided;

vi. for a Medicaid enrolled nursing facility with high occupancy to apply for additional bed approval, documentation of availability of health manpower for the proposed expansion shall be required.

vii. for a Medicaid enrolled nursing facility with high occupancy to apply for additional bed approval, for the most recent 36 months preceding the date of application, compliance history and quality of care performance of the applicant facility must be void of any of the following sanctions:

- (a). appointment of a temporary manager;
- (b). termination, non-renewal or cancellation, or initiation of termination or non-renewal of provider agreement;
- (c). license revocation or non-renewal.

b. when average annual occupancy for the four most recent quarters (as reported in the LTC-2) exceeds 95 percent in a parish, the department will determine whether additional beds are needed, and if indicated, may issue a Request for Proposals to develop the needed beds:

i. upon issuance of the utilization report the department will identify the parishes with average annual occupancy in excess of 95 percent. The LTC-2 is issued by the department in the fourth month following the end of each calendar quarter;

ii. For each parish in which average annual occupancy is in excess of 95 percent, the department, in order to determine if additional beds are needed, may review the census data, utilization trends, and other factors such as special needs in an area, information received from other health care providers and other knowledgeable sources in the area, waiting lists in existing facilities, requests from the community, patient origin studies, appropriateness of placements in an area, remoteness of an area, occupancy rates in adjoining and/or adjacent parishes, availability of alternatives, reasonableness of distance to facilities, distribution of beds within a service area or geographical area, and such other factors as the department may deem relevant. The number of beds which can be added shall not exceed 15 percent of the existing approved beds in the parish, or 120 beds, whichever is less. The department will strive to assure that occupancy in existing facilities in the area will not decline below 85 percent as a result of the additional beds;

iii. if the department determines that there is in fact a need for beds in a parish with average annual occupancy in excess of 95 percent, a Request for Proposals (RFP) will be issued. The RFP will indicate the parish and/or area in need of beds, the number of beds needed, the date by which the

beds are needed to be available to the target population (enrolled in Medicaid), and the factors which the department considers relevant in determining need for the additional beds. The RFP will specify the LTC-2 on which the determination of need is based;

iv. the RFP will be issued through the press (AP, UPI, nearest metropolitan area newspaper), and will specify the dates during which the department will accept applications. Also, nursing facilities in the service area and adjoining parishes will be notified of the RFP.

v. no applications will be accepted under these provisions unless the department declares a need and issues a Request for Proposals. Applications will be accepted for expansions of existing facilities and/or for the development of new facilities;

vi. applications will be accepted for a 30-day period, to be specified in the RFP. Once submitted, an application cannot be changed; additional information will not be accepted;

vii. the department will review the proposals and independently evaluate and assign points (out of a possible 120) to the applications, as follows:

- 0-20 points: Availability of beds to the Title XIX population. NOTE: work plan for Medicaid certification, and availability of site for the proposal; Appropriateness of location, or proposed location.
- 0-20 points: NOTE: accessibility to target population, relationship or cooperative agreements with other health care providers, and distance to other health care providers;
- 0-20 points: Availability of funds; financial viability;
- 0-20 points: Responsiveness to groups with special needs (e.g. AIDS patients, ventilator assisted patients; technology dependent patients);
- 0-20 points: Experience and availability of key personnel (e. g., director of nursing, administrator, medical director);
- 0-20 points: Distribution of beds/facilities within the service area. Geographic distribution of existing beds and population density will be taken into account.

viii. a score of 0-20 will be given to the applicant's response to each item using the following guideline:

- 0 = inadequate response
- 5 = marginal response
- 10 = satisfactory response
- 15 = above average response; and
- 20 = outstanding response

ix. if there is a tie for highest score for a specific facility/beds for which the department has requested proposals, a comparative review of the top scoring proposals will be conducted. In the case of a tie, the department will make a decision to approve one of the top scoring applications based on comparative review of the proposals;

x. if no proposals are received which adequately respond to the need, the department may opt not to approve an

application;

xi. at the end of the 60-day review period, each applicant will be notified of the department's decision to approve or disapprove the application. However, the department may extend the evaluation period for up to 30 days. Applicants will be given 30 days from the date of receipt of notification by the department in which to file an appeal (refer to §12505.C, Appeal Procedures);

xii. the issuance of the approval of the application with the highest number of points shall be suspended during the 30-day period for filing appeals and during the pendency of any administrative appeal. All administrative appeals shall be consolidated for purposes of the hearing;

xiii. proposals submitted under these provisions are bound to the description in the application with regard to the type of beds and/or services proposed as well as to the site/location as defined in the request made by the department. Approval for Medicaid certification shall be revoked if these aspects of the proposal are altered.

10. Alternate Use of Licensed Approved Title XIX Beds. In a service area in which average annual occupancy is lower than 93 percent, a nursing home may elect to temporarily convert a number of Title XIX beds to an alternate use (e.g., adult day care). The beds may be converted for alternate use until such time as the average annual occupancy in the service area exceeds 93 percent (based on the LTC-2 report) and the facility is notified of the same. The facility shall then either re-enroll the beds as nursing home beds within one year of receipt of notice from the department that the average annual occupancy in the service area exceeds 93 percent. The approval for beds not re-enrolled by that time will be expired.

a. a facility is prohibited from adding beds when alternately using beds.

b. all approved beds must be enrolled as nursing home beds in Title XIX for the four most recent quarters, as reported in the department's occupancy report, in order for additional beds to be approved.

c. a total conversion of all beds is prohibited.

11. Additional Beds for Replacement Facility. A nursing facility that has had all approved beds enrolled for the four most recent quarters (as reported in the LTC-2), and is structurally older than 25 years, may apply for approval for additional beds to be enrolled in the Medicaid Program in a replacement facility. The number of beds for which application may be made shall not exceed 20 beds, except that a facility may be approved for sufficient beds to bring the total approved beds in the replacement facility to 80, and except that a facility shall not be approved for beds that would exceed 130 total approved beds in the replacement facility. Sufficient documentation must be submitted to demonstrate to the department's satisfaction that the facility is structurally older than 25 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21: (August 1995).

§12505. Application Procedures

A. General

1. Application shall be made to the department on forms provided for that purpose and shall contain such information as the department may require. Applications shall be submitted on 8 ½" by 11" paper, and shall be accompanied by a non-refundable fee of \$10 per bed. An original and three copies of the application shall be submitted.

2. The applicant representative specified on the application will be the only person to whom the Facility Need Review Program sends written notification in matters relative to the status of the application during the review process. If the applicant representative (or his address) changes at any time during the review process, the applicant shall notify the Facility Need Review Program in writing.

3. Applicants may request application forms in writing or by telephone from the Facility Need Review Program. The Facility Need Review Program will provide the applicant with application forms, inventories, utilization data, and other materials relevant to the type of application.

B. Review Process

1. The review period will be no more than 60 days, except as otherwise outlined in §12503.A.5.j and §12503.B.6.b.xi. The review period begins on the first day after the date of receipt of the application, or, in the case of issuance of an RFP, on the first day after the period specified in the RFP.

2. A longer review period will be permitted only when requested by the Facility Need Review Program. A maximum of 30 days will be allowed for an extension, except as otherwise outlined in §12503.A.5.j. An applicant may not request an extension of the review period, but may withdraw (in writing) an application at any time prior to the notification of the decision by the Facility Need Review Program. The application fee is non-refundable.

3. The Facility Need Review Program shall review the application within the specified time limits and provide written notification of the decision to the applicant representative. Notification of disapproval shall be sent by certified mail to the applicant representative, with reasons for disapproval specified. If notification is not sent by the sixtieth day, except as outlined in §12503.A.5.j and B.6.b.x, the application is automatically denied.

C. Appeal Procedures

1. Upon refusal of the department to grant approval, only the applicant shall have the right to an administrative appeal. A written request for such an appeal (by registered mail) must be received by the secretary of the Department of Health and Hospitals within 30 days after the notification of disapproval is received by the applicant. A fee of \$500 shall accompany a request for an appeal.

2. Hearings shall be conducted by a hearing officer designated by the governor, provided that no person who has taken part in any prior consideration of, or action upon the application, may conduct such hearings. However, a hearing officer who presided over a hearing and remanded the matter to the department may hear a subsequent appeal of the same

application if the department again disapproves the application.

3. The hearing shall commence within 30 days after receipt of the written request for the hearing. Requests by the department or the applicant for extensions of time within which to commence a hearing may be granted at the discretion of the hearing officer, provided that if the hearing is not concluded within 180 days from the date of receipt by the applicant of notification of disapproval, the decision of the department will be considered upheld.

4. The hearing officer shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues. The hearing shall be open to the public.

5. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs may be admitted and given probative effect. The rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

6. All evidence, including records and documents in the possession of DHH of which it desires to avail itself, shall be offered and made part of the records, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within DHH's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material notices, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed.

7. The hearing officer shall have the power to sign and issue subpoenas, or to direct the department to do so, in order to require attendance and the testimony by witnesses and to require the productions of books, papers and other documentary evidence. The applicant is required to notify the hearing officer in writing at least 10 days in advance of the hearing of those witnesses whom he wishes to be subpoenaed. No subpoena shall be issued until the party (other than the department) who wishes to subpoena a witness first deposits with the hearing officer a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. DHH may request issuance of subpoenas without depositing said sum of money. The witness fee may be waived if the person is an employee of DHH. When any person summoned under this section neglects or refuses to obey such summons, or to produce books, papers, records, or

other data, or to give testimony, as required, DHH may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. It shall be the duty of the judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him, to proceed to a hearing of the case; and upon such hearing, the judge may issue such order as he shall deem proper, not inconsistent with the law for the punishment of contempt, to enforce obedience to the requirements of the summons and to punish such person for this default or disobedience.

8. The department or any party to the proceedings may take the deposition of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. Depositions so taken shall be admissible in the review proceeding at issue. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the hearing officer in accordance with the rules of evidence provided in Subsection C of this Section.

9. The applicant, the department, and any other agency which reviewed the application, and other interested parties, including members of the public and representatives of consumers of health services, shall be permitted to give testimony and present arguments at the hearing without formally intervening. Such testimony and arguments shall be presented after the testimony of the applicant and DHH has been presented, or, at the discretion of the hearing officer, at any other convenient time. When such testimony is presented, all parties may cross-examine the witness.

10. A record of the hearing proceeding shall be maintained. Copies of such record together with copies of all documents received in evidence shall be available to the parties, provided that any party who requests copies of such material may be required to bear the costs thereof.

11. The hearing officer shall notify all parties, in writing or on the record, of the day on which the hearing will conclude and of any changes thereto; provided, a hearing must be concluded in accordance with the time requirements specified in Subsection C.3 of this Section. As soon as practicable, but not more than 45 days after the conclusion of a hearing, the hearing officer shall send to the applicant, the department, and to any interested parties who participated in the hearing, his written decision and the reasons for the decision. Such decisions shall be publicized by the department through local newspapers and public information channels. After rendering his decision, the hearing officer shall transmit the record of the hearing to the department.

12. An applicant who fails to have the disapproval reversed shall forfeit his filing fee.

13. Judicial review of the decision of the hearing officer shall be in accordance with the provisions of R.S. 49:964 provided, however, that only an applicant aggrieved by the decision of the hearing officer shall have the right to judicial

review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21: (August 1995).

Rose Forrest
Secretary

9508#032

RULE

Department of Labor Office of Workers' Compensation

Insurance Cost Containment (LAC 40:I.1113)

Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., and in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation hereby amends the Insurance Cost Containment rules, LAC 40:I.Chapter 11.

The changes to this rule clarifies the requirements to participate in the occupational safety and health program and the procedures that will be used to evaluate an employer's application to participate in the program.

This proposed rule became effective on April 20, 1995 by emergency rule.

Title 40

Labor and Employment

Part I. Workers' Compensation Administration

Chapter 11. Insurance Cost Containment

§1113. Application for Participation in the Occupational Safety and Health Program

A. Only "eligible employers" who have certificate of attendance Form LDOL-WC-Form Number 1022 issued within the last four years may apply for participation in the Occupational Safety and Health program.

B. An application for participation in the Occupational Safety and Health Program shall consist of the following:

1. a properly completed form LDOL-OWC 1023;
2. a copy of the applicant's OSHA 200 log from the previous year;
3. a sworn statement that:
 - a. the company has written safety programs and training documentation as required by OSHA standards relevant to its facility for at least a six-month period;
 - b. the applicant's lost workday incident rate is less than the national average for its respective Standard Industrial Classification (SIC) code; and
 - c. the applicant company has experienced no fatalities within the 24 months immediately preceding the date of the application;

4. any additional information which the Occupational Safety and Health Section of the Office of Workers' Compensation Administration deems necessary to evaluate the application.

C. Application Rejection

1. The Occupational Safety and Health Section of the Office of Workers' Compensation Administration may reject:

- a. any application which does not contain all requested information or which does not reflect a commitment to safety in the workplace;
- b. an application at any time before the initial phase inspection is completed if it is determined that the company's application contained false information or that a fatality has occurred since the application was submitted.

2. A company whose application is rejected due to a lack of commitment to safety or for an application containing false information shall be allowed to reapply no earlier than 12 months from the date of the rejection notice.

D. In scheduling surveys the OWCA will attempt to schedule on the basis of the date the application is received in the office but shall also consider the OSHA High Hazard list and geographical location for maximizing scheduling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 19:896 (July 1993), amended LR 21: (August 1995).

Alvin J. Walsh
Director

9508#055

RULE

Department of Natural Resources Office of Conservation

Hazardous Liquids Pipeline Safety (LAC 33:V.Subpart 3)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends the hazardous liquids regulations.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline

Subchapter A. General

§30103. Applicability

- A. ...
- B. This Chapter does not apply to:
 1. - 2. ...

3. transportation of non-HVL through low-stress pipelines, except for any pipeline or pipeline segment that is located:

- a. in an onshore area other than a rural area;
- b. offshore; or
- c. in a waterway that is navigable in fact and currently used for commercial navigation;

4. ...

5. transportation of a hazardous liquid or carbon dioxide in offshore pipelines which are located upstream from the outlet flange of each facility where hydrocarbons or carbon dioxide are produced or where produced hydrocarbons or carbon dioxide are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream;

6. ...

7. transportation of a hazardous liquid or carbon dioxide:

a. by vessel, aircraft, tank truck, tank car, or other nonpipeline mode of transportation; or

b. through facilities located on the grounds of a materials transportation terminal that are used exclusively to transfer hazardous liquid or carbon dioxide between nonpipeline modes of transportation or between a nonpipeline mode and a pipeline, not including any device and associated piping that are necessary to control pressure in the pipeline under §30265.B; and

8. transportation of carbon dioxide downstream from the following point, as applicable:

a. the inlet of a compressor used in the injection of carbon dioxide for oil recovery operations, or the point where recycled carbon dioxide enters the injection system, whichever is farther upstream; or

b. the connection of the first branch pipeline in the production field that transports carbon dioxide to injection wells or to headers or manifolds from which pipelines branch to injection wells.

C. A low-stress pipeline to which this Chapter applies that exists on July 12, 1994 need not comply with this Chapter or CFR Part 199 until July 12, 1996, except as follows:

1. Subchapter B of this Chapter applies beginning on October 10, 1994; and

2. any replacement, relocation, or other change made to existing pipelines after October 9, 1994 must comply with Subchapters A and C - E of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20:439 (1994), LR 21: (August 1995).

§30105. Definitions

As used in this Chapter:

Administrator—the administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the secretary of transportation.

* * *

Corrosive Product—"corrosive material" as defined by CFR 173.136 Class 8—Definitions of this Chapter.

* * *

Flammable Product—"flammable liquid" as defined by CFR 173.120 Class 3—Definitions of this Chapter.

Gathering Line—a pipeline 219.1 mm (8-5/8 in.) or less nominal outside diameter that transports petroleum from a production facility.

* * *

In-Plant Piping System—piping that is located on the grounds of a plant and used to transfer hazardous liquid or carbon dioxide between plant facilities or between plant facilities and a pipeline or other mode of transportation, not including any device and associated piping that are necessary to control pressure in the pipeline under §30265.B.

* * *

Low-Stress Pipeline—a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe.

* * *

Petroleum—crude oil, condensate, natural gasoline, natural gas liquids, and liquefied petroleum gas.

Petroleum Product—flammable, toxic, or corrosive products obtained from distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks and other miscellaneous hydrocarbon compounds.

* * *

Rural Area—outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, or community development.

Specified Minimum Yield Strength—the minimum yield strength, expressed in pounds per square inch, prescribed by the specification under which the material is purchased from the manufacturer.

* * *

Toxic Product—"poisonous material" as defined by CFR 173.132 Class 6, Division 6.1—Definitions of this Chapter.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 21: (August 1995).

§30107. Matter Incorporated by Reference

A. Any document or portion thereof incorporated by reference in this Chapter is included in this Chapter as though it were printed in full. When only a portion of a document is referenced, then this Chapter incorporates only that referenced portion of the document and the remainder is not incorporated. Applicable editions are listed in Subsection C of this Section in parentheses following the title of the referenced material. Earlier editions listed in previous editions of this Section may be used for components manufactured, designed, or installed in accordance with those earlier editions

at the time they were listed. The user must refer to the appropriate previous edition of 49 CFR for a listing of the earlier editions.

B. All incorporated materials are available for inspection in the Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. These materials have been approved for incorporation by reference by the director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, materials incorporated by reference are available as follows:

1. American Gas Association (AGA), 1515 Wilson Boulevard, Arlington, VA 22209.
2. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005;
3. The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, NY 10017;
4. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NE., Vienna, VA 22180;
5. American National Standards Institute (ANSI), 11 West 42nd Street, New York, NY 10036;
6. American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103-1187.

C. The full title for the publications incorporated by reference in this Part are as follows. Numbers in parenthesis indicate applicable editions:

1. American Gas Association (AGA): AGA Pipeline Research Committee, Project PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (December 1989). The RSTRENG program may be used for calculating remaining strength.
2. American Society of Mechanical Engineers (ASME):
 - a. - b. ...
 - c. ASME/ANSI B31.8 "Gas Transmission and Distribution Piping Systems" (1989 with ASME/ANSI B31.8a-1990, B31.8b-1990, B31.8c-1992 Addenda and Special Errata issued July 6, 1990 and Special Errata (Second) issued February 28, 1991);
 - d. ASME/ANSI B31G, "Manual for Determining the Remaining Strength of Corroded Pipelines" (1991).

3. - 4.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:439 (1994), LR 21: (August 1995).

§30111. Conversion to Service Subject to this Chapter

A. A steel pipeline previously used in service not subject to this Chapter qualifies for use under this Chapter if the operator prepares and follows a written procedure to accomplish the following:

1. The design, construction, operation, and maintenance history of the pipeline must be reviewed and, where sufficient

historical records are not available, appropriate tests must be performed to determine if the pipeline is in satisfactory condition for safe operation. If one or more of the variables necessary to verify the design pressure under §30161 or to perform the testing under Subsection A.4 of this Section is unknown, the design pressure may be verified and the maximum operating pressure determined by:

- a. testing the pipeline in accordance with ASME B31.8, Appendix N, to produce a stress equal to the yield strength; and

- b. applying to not more than 80 percent of the first pressure that produces a yielding, the design factor F in §30161.A and the appropriate factors in §30161.E.

2. - 3. ...

4. The pipeline must be tested in accordance with Subchapter E to substantiate the maximum operating pressure permitted by §30265.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21: (August 1995).

Subchapter B. Reporting Accidents and Safety-Related Conditions

§30125. Reporting Accidents

An accident report is required for each failure in a pipeline system subject to this Part in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following:

1. - 5.d. ...

6. estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), amended LR 21: (August 1995).

§30127. Telephonic Notice of Certain Accidents

A. At the earliest practicable moment within two hours following discovery of a release of the hazardous liquid or carbon dioxide transported resulting in an event described in §30125, the operator of the system shall give notice, in accordance with §30127.B of any failure that:

1. - 2. ...

3. caused estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000.

4. - 5. ...

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629

(August 1989), amended LR 18:863 (August 1992), LR 20:440 (1994), LR 21: (August 1995).

Subchapter C. Design Requirements

§30161. Internal Design Pressure

A. ...

B. The yield strength to be used in determining the internal design pressure under §30161.A is the specified minimum yield strength. If the specified minimum yield strength is not known, the yield strength to be used in the design formula is one of the following:

1. the yield strength determined by performing all of the tensile tests of API Specification 5L on randomly selected specimens with the following number of tests:

Pipe Size	Number of Tests
Less than 168.3 mm (6-5/8 in.) nominal outside diameter	One test for each 200 lengths
168.3 through 323.8 mm (6-5/8 through 12-3/4 in.) nominal outside diameter	One test for each 100 lengths
Larger than 323.8 mm (12-3/4 in.) nominal outside diameter	One test for each 50 lengths

2. If the average yield-tensile ratio exceeds 0.85, the yield strength shall be taken as 165,474 kPa (24,000 psi). If the average yield tensile ratio is 0.85 or less, the yield strength of the pipe is taken as the lower of the following:

- a. eighty percent of the average yield strength determined by the tensile tests;
- b. the lowest yield strength determined by the tensile tests.

3. If the pipe is not tensile tested as provided in Subsection B, the yield strength shall be taken as 165,474 kPa (24,000 psi).

C. If the nominal wall thickness to be used in determining internal design pressure under §30161.A is not known, it is determined by measuring the thickness of each piece of pipe at quarter points on one end. However, if the pipe is of uniform grade, size, and thickness, only 10 individual lengths or five percent of all lengths, whichever is greater, need be measured. The thickness of the lengths that are not measured must be verified by applying a gage set to the minimum thickness found by the measurement. The nominal wall thickness to be used is the next wall thickness found in commercial specifications that is below the average of all the measurement taken. However, the nominal wall thickness may not be more than 1.14 times the smallest measurement taken on pipe that is less than 508 mm (20 in.) nominal outside diameter, nor more than 1.11 times the smallest measurement taken on pipe that is 508 mm (20 in.) or more in nominal outside diameter.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:441 (1994), LR 21: (August 1995).

§30169. New Pipe

Any new pipe installed in a pipeline system must comply with the following:

1. - 2. ...

3. Each length of pipe with a nominal outside diameter of 114.3 mm (4-1/2 in.) or more must be marked on the pipe or pipe coating with the specification to which it was made, the specified minimum yield strength or grade, and the pipe size. The marking must be applied in a manner that does not damage the pipe or pipe coating and must remain visible until the pipe is installed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21: (August 1995).

§30177. Passage of Internal Inspection Devices

A. Except as provided in Subsections B and C of this Section, each new pipeline and each line section of a pipeline where the line pipe, valve, fitting or other line component is replaced; must be designed and constructed to accommodate the passage of instrumented internal inspection devices.

B. This Section does not apply to:

- 1. manifolds;
- 2. station piping such as at pump stations, meter stations, or pressure reducing stations;
- 3. piping associated with tank farms and other storage facilities;
- 4. cross-overs;
- 5. sizes of pipe for which an instrumented internal inspection device is not commercially available;
- 6. offshore pipelines, other than main lines 10 inches or greater in nominal diameter, that transport liquids to onshore facilities; and
- 7. other piping that the administrator under CFR Part 190 and Chapter 303 of this Subpart, finds in a particular case would be impracticable to design and construct to accommodate the passage of instrumented internal inspection devices.

C. An operator encountering emergencies, construction time constraints and other unforeseen construction problems need not construct a new or replacement segment of a pipeline to meet Subsection A of this Section, if the operator determines and documents why an impracticability prohibits compliance with paragraph A of this Section. Within 30 days after discovering the emergency or construction problem the operator must petition, under CFR Part 190 and Chapter 303 of this Subpart, for approval that design and construction to accommodate passage of instrumented internal inspection devices would be impracticable. If the petition is denied, within one year after the date of the notice of the denial, the operator must modify that segment to allow passage of instrumented internal inspection devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21: (August 1995).

Subchapter D. Construction

§30201. Scope

A. - B. ...

C. **Inspection—General.** Inspection must be provided to ensure the installation of pipe or pipeline systems in accordance with the requirements of this Subchapter. Each operator shall notify the Pipeline Safety Section of the Office of Conservation, Louisiana Department of Natural Resources, of proposed pipeline construction at least seven days prior to commencement of said construction. No person may be used to perform inspections unless that person has been trained and is qualified in the phase of construction to be inspected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:441 (1994), LR 21: (August 1995).

§30205. Bending of Pipe

A. ...

B. Each field bend must comply with the following:

1. - 2. ...

3. on pipe containing a longitudinal weld, the longitudinal weld must be as near as practicable to the neutral axis of the bend unless:

a. ...

b. the pipe is 323.8 mm (12-3/4 in.) or less nominal outside diameter or has a diameter to wall thickness ratio less than 70;

c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21: (August 1995).

§30209. Welds and Welding Inspection: Standards of Acceptability

A. ...

B. The acceptability of a weld is determined according to the standards in Section 6 of API Standard 1104. However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if the Appendix to API Standard 1104 applies to the weld, the acceptability of the weld may be determined under that appendix.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), LR 21: (August 1995).

§30211. Welds

A.1. - 3. ...

B. **Nondestructive Testing**

1. - 4. ...

5. all girth welds installed each day in the following locations must be nondestructively tested over their entire

circumference, except that when nondestructive testing is impracticable for a girth weld, it need not be tested if the number of girth welds for which testing is impracticable does not exceed 10 percent of the girth welds installed that day:

6. ...

7. At pipeline tie-ins, including tie-ins of replacement sections, 100 percent of the girth welds must be nondestructively tested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), LR 21: (August 1995).

§30219. Installation of Pipe in a Ditch

A. ...

B. Except for pipe in the Gulf of Mexico and its inlets, all offshore pipe in water at least 3.7 m (12 feet) deep but not more than 61 m (200 feet) deep, as measured from the mean low tide, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21: (August 1995).

§30221. Cover Over Buried Pipeline

A. ...

B. Except for the Gulf of Mexico and its inlets, less cover than the minimum required by §30221.A and §30203 may be used if:

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21: (August 1995).

§30237. Pumping Equipment

A. - C. ...

D. Except for offshore pipelines, pumping equipment must be installed on property that is under the control of the operator and at least 15.2 m (50 ft.) from the boundary of the pump station.

E. Adequate fire protection must be installed at each pump station. If the fire protection system installed requires the use of pumps, motive power must be provided for those pumps that is separate from the power that operates the station.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21: (August 1995).

Subchapter E. Hydrostatic Testing

§30247. General Requirements

A. Except as otherwise provided in this Section and in §30249.A.2, no operator may operate a pipeline unless it has been pressure tested under this Chapter without leakage. In addition, no operator may return to service a segment of

pipeline that has been replaced, relocated, or otherwise changed until it has been pressure tested under this Chapter without leakage.

B. Except for pipelines converted under §30111, the following pipelines may be operated without pressure testing under this Chapter:

1. Any hazardous liquid pipeline whose maximum operating pressure is established under §30265.A.5 that is:

- a. an interstate pipeline constructed before January 8, 1971;
- b. an interstate offshore gathering line constructed before August 1, 1977;
- c. an intrastate pipeline constructed before October 21, 1985; or
- d. a low-stress pipeline constructed before August 11, 1994 that transports HVL.

2. Any carbon dioxide pipeline constructed before July 12, 1991, that:

- a. has its maximum operating pressure established under §30265.A.5; or
- b. is located in a rural area as part of a production field distribution system.

3. Any low-stress pipeline constructed before August 11, 1994 that does not transport HVL.

C. Except for pipelines that transport HVL onshore and low-stress pipelines, the following compliance deadlines apply to pipelines under B.1 and B.2.a of this Section that have not been pressure tested under this Chapter:

1. before December 7, 1995, for each pipeline each operator shall:

- a. plan and schedule testing, according to this Subsection; or
- b. establish the pipelines maximum operating pressure under §30265.A.5.

2. for pipelines scheduled for testing, each operator shall:

- a. before December 7, 1998, pressure test:
 - i. each pipeline identified by name, symbol, or otherwise that existing records show contains more than 50 percent by mileage of electric resistance welded pipe manufactured before 1970; and
 - ii. at least 50 percent of the mileage of all other pipelines; and
- b. before December 7, 2001, pressure test the remainder of the pipeline mileage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21: (August 1995).

§30249. Testing

A. Testing of Components

1. ...

2. A component, other than pipe, that is the only item being replaced or added to the pipeline system need not be hydrostatically tested under §30249.A if the manufacturer certifies that either:

a. - b. ...

B. Test Medium

1. Except as provided in §30249.B, C, and D of this Section, water must be used as the test medium.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 21: (August 1995).

Subchapter F. Operation and Maintenance §30257. General Requirements

A. - B. ...

C. Except as provided by §30111, no operator may operate any part of any of the following pipelines unless it was designed and constructed as required by this Chapter:

1. an interstate pipeline, other than a low-stress pipeline, on which construction was begun after March 31, 1970, that transports hazardous liquid;

2. an interstate offshore gathering line, other than a low-stress pipeline, on which construction was begun after July 31, 1977, that transports hazardous liquid;

3. an intrastate pipeline, other than a low-stress pipeline, on which construction was begun after October 20, 1985, that transports hazardous liquid;

4. ...

5. a low-stress pipeline on which construction was begun after August 10, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), amended LR 21: (August 1995).

§30259. Procedural Manual for Operations, Maintenance, and Emergencies

A. - B. ...

C. Maintenance and Normal Operations. The manual required by §30259.A must include procedures for the following to provide safety during maintenance and normal operations:

1. - 13. ...

14. taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation, emergency rescue equipment, including a breathing apparatus and, a rescue harness and line.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 21: (August 1995).

§30265. Maximum Operating Pressure

A. Except for surge pressures and other variations from normal operations, no operator may operate a pipeline at a pressure that exceeds any of the following:

1. the internal design pressure of the pipe determined in accordance with §30161. However, for steel pipe in pipelines being converted under §30111, if one or more factors of the design formula (§30161) are unknown, one of the following pressures is to be used as design pressure:

a. eighty percent of the first test pressure that produces yield under section N5.0 of Appendix N of ASME B31.8, reduced by the appropriate factors in 30161.A and E; or

b. if the pipe is 323.8 mm (12-3/4 in.) or less outside diameter and is not tested to yield under this Paragraph, 1379 kPa (200 psig).

2. 5. ...

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21: (August 1995).

§30271. Inspection of Rights-of-Way and Crossings Under Navigable Waters

A. Each operator shall, at intervals not exceeding three weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21: (August 1995).

§30272. Underwater Inspection and Reburial of Pipelines in the Gulf of Mexico and its Inlets

A. Except for gathering lines of 114.3 mm (4-1/2 in.) nominal outside diameter or smaller, each operator shall, in accordance with this Section, conduct an underwater inspection of its pipelines in the Gulf of Mexico and its inlets. The inspection must be conducted after October 3, 1989 and before November 16, 1992.

B.1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18:865 (August 1992), amended LR 21: (August 1995).

§30273. Cathodic Protection

A. ...

B. Each operator shall electrically inspect each bare hazardous liquid interstate pipeline, other than a low-stress pipeline, before April 1, 1975; each bare hazardous liquid intrastate pipeline, other than a low-stress pipeline, before October 20, 1990; each bare carbon dioxide pipeline before July 12, 1994; and each bare low-stress pipeline before July 12, 1996 to determine any areas in which active corrosion is taking place. The operator may not increase its established operating pressure on a section of bare pipeline until the section has been so electrically inspected. In any areas where

active corrosion is found, the operator shall provide cathodic protection. Section 30275.F and G apply to all corroded pipe that is found.

C. Each operator shall electrically inspect all breakout tank areas and buried pumping station piping on hazardous liquid interstate pipelines, other than low-stress pipelines, before April 1, 1973; on hazardous liquid intrastate pipelines, other than low-stress pipelines, before October 20, 1988; on carbon dioxide pipelines before July 12, 1994; and on low-stress pipelines before July 12, 1996 as to the need for cathodic protection, and cathodic protection shall be provided where necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:865 (August 1992), LR 21: (August 1995).

§30275. External Corrosion Control

A. Each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, conduct tests on each buried, in contact with the ground, or submerged pipeline facility in its pipeline system that is under cathodic protection to determine whether the protection is adequate.

B. - G. ...

H. The strength of the pipe, based on actual remaining wall thickness, for Subsections F and G of this Section may be determined by the procedure in ASME B31G manual for Determining the Remaining Strength of Corroded Pipelines or by the procedure developed by AGA/Battelle—A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe (with RSTRENG disk). Application of the procedure in the ASME B31G manual or the AGA/Battelle Modified Criterion is applicable to corroded regions (not penetrating the pipe wall) in existing steel pipelines in accordance with limitations set out in the respective procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21: (August 1995).

Ernest A. Burguières, III
Commissioner

9508#020

RULE

**Department of Natural Resources
Office of Conservation**

**Natural Gas Pipeline Safety
(LAC 43:XIII.Chapters 1,5,11,17,21,27 and 29)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends the pipeline safety regulations.

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation - Pipeline Safety

Subpart 1. General Provisions

Chapter 1. General

§125. Definitions

Administrator—the administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the secretary of transportation.

* * *

Line Section—continuous run of transmission line between adjacent compressor stations, between a compressor station and storage facilities, between a compressor station and a block valve, or between adjacent block valves.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:852 (August 1992), LR 20:442 (1994), LR 21: (August 1995).

Chapter 5. Class Locations

§503. Gathering Lines and Petroleum Gas Systems

A. Gathering Lines. Except as provided in §§101 and 1112, each operator of a gathering line must comply with the requirements of this Part applicable to transmission lines.

B. 1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:443 (1994), LR 21: (August 1995).

Chapter 11. Pipeline Design Requirements

§1112. Passage of Internal Inspection Devices

A. Except as provided in Subsections B and C of this Section, each new transmission line and each line section of a transmission line where the line pipe, valve, fitting, or other line component is replaced must be designed and constructed to accommodate the passage of instrumented internal inspection devices.

B. This Section does not apply to:

1. manifolds;
2. station piping such as at compressor stations, meter stations, or regulator stations;
3. piping associated with storage facilities, other than a continuous run of transmission line between a compressor station and storage facilities;
4. cross-overs;
5. sizes of pipe for which an instrumented internal inspection device is not commercially available;
6. transmission lines, operated in conjunction with a distribution system which are installed in Class 4 locations;
7. offshore pipelines, other than transmission lines 10 inches or greater in nominal diameter, that transport gas to onshore facilities; and

8. other piping that, under CFR Part 190 and LAC 43:XI, the administrator finds in a particular case would be impracticable to design and construct to accommodate the passage of instrumented internal inspection devices.

C. An operator encountering emergencies, construction time constraints or other unforeseen construction problems need not construct a new or replacement segment of a transmission line to meet Subsection A of this Section, if the operator determines and documents why an impracticability prohibits compliance with Subsection A of this Section. Within 30 days after discovering the emergency or construction problem the operator must petition, under CFR Part 190 and LAC 43:XI, for approval that design and construction to accommodate passage of instrumented internal inspection devices would be impracticable. If the petition is denied, within one year after the date of the notice of the denial, the operator must modify that segment to allow passage of instrumented internal inspection devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21: (August 1995).

Chapter 17. Transmission Line Construction

§1705. Inspection: General

Each transmission line or main must be inspected to ensure that it is constructed in accordance with this Part. Each operator shall notify the Pipeline Safety Section of the Office of Conservation, Louisiana Department of Natural Resources of any new proposed pipeline construction or replacement for a total length of one mile or more on transmission lines or mains at least 48 hours prior to commencement of said construction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (1994), amended LR 21: (August 1995).

Chapter 21. Corrosion Requirements

§2105. General

The corrosion control procedures required by §2705.B.2, including those for the design, installation, operation, and maintenance of cathodic protection systems, must be carried out by, or under the direction of, a person qualified in pipeline corrosion control methods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21: (August 1995).

Chapter 27. General Operating Requirements

§2703. General Provisions

A. ...

B. Each operator shall keep records necessary to administer the procedures established under §2705.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:857 (August 1992), LR 21: (August 1995).

§2705. Procedural Manual for Operations, Maintenance, and Emergencies

A. General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

B. Maintenance and Normal Operations. The manual required by §2705.A must include procedures for the following to provide safety during maintenance and operations:

1. operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this Subpart and Chapter 29;
2. controlling corrosion in accordance with the operations and maintenance requirements of Chapter 21;
3. making construction records, maps, and operating history available to appropriate operating personnel;
4. gathering of data needed for reporting incidents under Chapter 3 in a timely and effective manner;
5. starting up and shutting down any part of the pipeline in a manner designed to assure operation within the MAOP limits prescribed by this Part, plus the build-up allowed for operation of pressure-limiting and control devices;
6. maintaining compressor stations, including provisions for isolating units or sections of pipe and for purging before returning to service;
7. starting, operating and shutting down gas compressor units;
8. periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found;
9. taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation, emergency rescue equipment, including a breathing apparatus and a rescue harness and line;
10. systematic and routine testing and inspection of pipe-type or bottle-type holders including:
 - a. provision for detecting external corrosion before the strength of the container has been impaired;
 - b. periodic sampling and testing of gas in storage to determine the dew point of vapors contained in the stored gas which, if condensed, might cause internal corrosion or interfere with the safe operation of the storage plant; and
 - c. periodic inspection and testing of pressure limiting equipment to determine that it is in safe operating condition and has adequate capacity.

C. Abnormal Operation. For transmission lines, the manual required by §2705.A must include procedures for the following to provide safety when operating design limits have been exceeded:

1. responding to, investigating, and correcting the cause of:
 - a. unintended closure of valves or shutdowns;
 - b. increase or decrease in pressure or flow rate outside normal operating limits;
 - c. loss of communications;
 - d. operation of any safety device; and
 - e. any other malfunction of a component, deviation from normal operation, or personnel error which may result in a hazard to persons or property.
2. Checking variations from normal operation after abnormal operation has ended at sufficient critical locations in the system to determine continued integrity and safe operation.
3. Notifying responsible operator personnel when notice of an abnormal operation is received.
4. Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.

D. Safety-Related Condition Reports. The manual required by §2705.A must include instructions enabling personnel who perform operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the reporting requirements of §321.

E. Surveillance, Emergency Response, and Accident Investigation. The procedures required by §§2713.A, 2717, and 2719 must be included in the manual required by §2705.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21: (August 1995).

§2717. Emergency Plans

A. Each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline emergency. At a minimum, the procedures must provide for the following:

1. receiving, identifying, and classifying notices of events which require immediate response by the operator;
2. establishing and maintaining adequate means of communication with appropriate fire, police, and other public officials;
3. prompt and effective response to a notice of each type of emergency, including the following:
 - a. gas detected inside or near a building;
 - b. fire located near or directly involving a pipeline facility;
 - c. explosion occurring near or directly involving a pipeline facility;
 - d. natural disaster.
4. the availability of personnel, equipment, tools, and materials, as needed at the scene of an emergency;
5. actions directed toward protecting people first and then property;

6. emergency shutdown and pressure reduction in any section of the operator's pipeline system necessary to minimize hazards to life or property;

7. making safe any actual or potential hazard to life or property;

8. notifying appropriate fire, police, and other public officials of gas pipeline emergencies and coordinating with them both planned responses and actual responses during an emergency;

9. safely restoring any service outage;

10. beginning action under §2719, if applicable, as soon after the end of the emergency as possible.

B. Each operator shall:

1. furnish its supervisors who are responsible for emergency action a copy of that portion of the latest edition of the emergency procedures established under Subsection A of this Section as necessary for compliance with those procedures;

2. train the appropriate operating personnel to assure that they are knowledgeable of the emergency procedures and verify that the training is effective;

3. review employee activities to determine whether the procedures were effectively followed in each emergency.

C. Each operator shall establish and maintain liaison with appropriate fire, police, and other public officials to:

1. learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency;

2. acquaint the officials with the operator's ability in responding to a gas pipeline emergency;

3. identify the types of gas pipeline emergencies of which the operator notifies the officials; and

4. plan how the operator and officials can engage in mutual assistance to minimize hazards to life or property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21: (August 1995).

§2718. Public Education

Each operator shall establish a continuing educational program to enable customers, the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a gas pipeline emergency for the purpose of reporting it to the operator of the appropriate public officials. The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports gas. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21: (August 1995).

§2725. Odorization of Gas

A. - F.3 ...

G. Equipment for malodorization must introduce the malodorant without wide variations in the level of malodorant. The method of using malodorant and the containers and equipment used are subject to the approval of the commissioner of conservation and must meet the following requirements:

1. - 4. ...

5. at the request of any gas company or affected person or upon the request of the commissioner of conservation, the Office of Conservation shall determine, after examination of any gas having a natural malodorant, the necessary rate of injection of additional malodorant, if any, which shall be necessary to meet the requirements of Subsection B;

6. the person subject to these rules must provide sufficient test points within each distribution system for use by the commissioner's staff to check the adequacy of odorization within the system. The test points must be of 1/4 inch threaded tap with pressure not to exceed five psi and located at remote locations approved by the commissioner.

H. Quarterly Reports

1. ...

2. Each person subject to these rules (excluding "master meter systems") shall record and retain on file for review by the Office of Conservation the following information:

a.-b. ...

c. the quantity of gas odorized by each malodorant agent used during each quarter. Reports on usage of odorant shall be made annually for Farm Taps.

3. ...

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:447 (April 1994), amended LR 21: (August 1995).

Chapter 29. Maintenance Requirements

§2907. Transmission Lines: Leakage Surveys

Leakage surveys of a transmission line must be conducted at intervals not exceeding 15 months, but at least once each calendar year. However, in the case of a transmission line which transports gas in conformity with §2725 without an odor or odorant, leakage surveys using leak detector equipment must be conducted:

1. in Class 3 locations, at intervals not exceeding seven and one-half months, but at least twice each calendar year; and

2. in Class 4 locations, at intervals not exceeding four and one-half months, but at least four times each calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21: (August 1995).

§2923. Distribution Systems: Patrolling, Leakage Surveys and Procedures

A.1. - 2. ...

B. Leakage Surveys and Procedures

1. Each operator of a distribution system shall conduct periodic leakage surveys in accordance with this Section.

2. The type and scope of the leakage control program must be determined by the nature of the operations and the local conditions, but it must meet the following minimum requirements:

a. a leakage survey with leak detector equipment must be conducted in business districts, including tests of the atmosphere in gas, electric, telephone, sewer, and water system manholes, at cracks in pavement and sidewalks, and at other locations providing an opportunity for finding gas leaks, at intervals not exceeding 15 months, but at least once each calendar year;

b. a leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at intervals not exceeding five years. However, for cathodically unprotected distribution lines subject to §2117.E on which electrical surveys for corrosion are impractical, survey intervals may not exceed three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21: (August 1995).

§2927. Abandonment or Deactivation of Facilities

A. Each operator shall conduct abandonment or deactivation of pipeline in accordance with the requirements of this Section.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21: (August 1995).

§2929. Compressor Stations: Procedures for Gas Compressor Units

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), repealed LR 21: (August 1995).

§2933. Compressor Stations: Isolation of Equipment for Maintenance or Alterations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), repealed LR 21: (August 1995).

§2936. Compressor Stations: Gas Detection

A. Not later than September 16, 1996, each compressor building in a compressor station must have a fixed gas detection and alarm system, unless the building is:

1. constructed so that at least 50 percent of its upright side area is permanently open; or
2. located in an unattended field compressor station of 1,000 horsepower or less.

B. Except when shutdown of the system is necessary for maintenance under §2936.C, each gas detection and alarm system required by this Section must:

1. continuously monitor the compressor building for a concentration of gas in air of not more than 25 percent of the lower explosive limit; and

2. if that concentration of gas is detected, warn persons about to enter the building and persons inside the building of the danger.

C. Each gas detection and alarm system required by this Section must be maintained to function properly. The maintenance must include performance tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21: (August 1995).

§2937. Pipe-Type and Bottle-Type Holders: Plan for Inspection and Testing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), repealed LR 21: (August 1995).

Ernest A. Burguières, III
Commissioner

9508#021

RULE

Department of Natural Resources
Office of Conservation

Pipeline Operation (LAC 43:XI.133)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends the pipeline operations regulations.

Title 43

NATURAL RESOURCES

Part XI. Office of Conservation - Pipeline Division

Subpart 1. Natural Gas and Coal

Chapter 1. Natural Gas and Coal

§133. Transportation of Intrastate Natural Gas and the Construction, Extension, Acquisition and Operation of Facilities or Extensions Thereof for the Purpose of Acquisition of Gas Supplies Within a Gas Supply Acquisition Service Area or Transportation of Gas Supplies for Others Within a Gas Supply Transportation Service Area Pursuant to the Provisions of Section 555(F) of the Act

A. This regulation shall apply to the requirements placed by Section 555(F) of the act upon an intrastate natural gas transporter relative to the transportation of intrastate natural gas and the construction, extension, acquisition and operation of facilities, or extensions thereof, for the purpose of acquisition of gas supplies within a gas supply acquisition service area or transportation of gas supplies for others within a gas supply transportation service area.

B. Each transporter owning or operating an intrastate pipeline, the construction and operation of which has been approved by order of the commissioner under Section 555(C) of the act, shall have the right to apply to the commissioner for the establishment of a gas supply acquisition service area or gas supply transportation service area. Within such gas supply acquisition service area or gas supply transportation service area a transporter may at its option enlarge or extend its facilities, by construction or acquisition, for the purpose of acquiring or transporting for others additional supplies of natural gas. All applications by the transporter filed with the commissioner requesting the establishment of a gas supply acquisition service area or gas supply transportation service area shall be in writing, verified under oath by an individual having authority, shall be in the form approved by the commissioner, shall be noticed upon interested parties by publication in the official journal of the State of Louisiana and the official journal of each parish within which the gas supply acquisition service area or gas supply transportation service area will be located, and shall contain the information required by §125. All information required to be included within the application which has been presented to the commissioner through prior hearing evidence and all records and documents in the possession of the commissioner filed pursuant to the Natural Resources and Energy Act of 1973 may be incorporated in the application by reference. Each application shall include a map depicting the location of the transporter's existing intrastate pipeline to which facilities constructed or acquired pursuant to this regulation shall connect.

C. All orders of the commissioner establishing gas supply acquisition service areas or gas supply transportation service areas shall be subject to the following limitations and restrictions.

1. Location. A gas supply acquisition service area or gas supply transportation service area shall be located adjacent to the applicant's existing pipeline facilities.

2. ...

3. Duration. An order of the commissioner establishing a gas supply acquisition service area or gas supply transportation service area shall remain in effect until terminated by subsequent order of the commissioner.

4. Interconnections. An order of the commissioner establishing a gas supply acquisition service area or gas supply transportation service area shall not permit a transporter to connect its facilities located within the gas supply acquisition service area or gas supply transportation service area to another pipeline system, including other pipelines or pipeline systems owned by the transporter.

5. Sales. An order of the commissioner establishing a

gas supply acquisition service area or gas supply transportation service area shall not permit a transporter to construct, extend, acquire or operate facilities, or extensions thereof, within such gas supply acquisition service area or gas supply transportation service area for the purpose of connecting such transporter's facilities to a customer and making sales of gas to such customer.

6. Abandonment of Facilities. An order of the commissioner establishing a gas supply acquisition service area or gas supply transportation service area shall not permit a transporter to abandon all or any portion of its facilities subject to the jurisdiction of the commissioner, or any service rendered by means of such facilities, within such gas supply acquisition service area or gas supply transportation service area.

7. Facilities Not Subject to Jurisdiction of Commissioner. An order of the commissioner shall not establish gas supply acquisition service areas or gas supply transportation service areas in conjunction with facilities which are not subject to the jurisdiction of the commissioner under the act.

8. Notice and Prohibition of Proposed Enlargement or Extension. Prior to enlarging or extending its facilities within a gas supply acquisition service area or gas supply transportation service area, a transporter shall give the commissioner 20 days notice, on a form approved by the commissioner, of the location, size, nature and purpose of the proposed enlargement or extension. The notice shall be contemporaneously mailed to those persons who are identified in the ad valorem tax records of the parish as the owners of the land to be traversed by the proposed facility, with notice that objections to the proposed facility, must be made to the commissioner, in writing, within 10 days of the date of the notice. The commissioner may, within such 20-day period, beginning on the date of receipt of the written notice in the Office of Conservation, prohibit the proposed construction or acquisition under the order establishing the gas supply acquisition service area or gas supply transportation service area and require the transporter to apply for an order to construct and operate the proposed facilities pursuant to Section 555(C) of the act. Upon request by the transporter, the commissioner may notify the transporter verbally, to be immediately confirmed in writing prior to the end of the 20-day notice period that he has no objection to the construction or acquisition of the proposed facility and that the transporter may immediately construct or acquire and operate the proposed facility.

D. ...

E. A transporter who has been issued an order establishing a gas supply acquisition service area or gas supply transportation service area may make application for an extension or the establishment of additional gas supply acquisition service area or gas supply transportation service area in connection with an application made pursuant to Section 555(C) of the act.

F. The commissioner shall issue written confirmation to a transporter that the proposed construction, extension,

acquisition and operation of facilities, or extensions thereof, within a gas supply acquisition service area or gas supply transportation service area is authorized by and in compliance with the order establishing the gas supply acquisition service area or gas supply transportation service area. Such confirmation shall be on a form adopted by the commissioner and shall be issued within 10 days after the end of the notification period provided in Subsection C.8 of this regulation.

G. ...

H. Nothing contained in this regulation shall be construed as a limitation upon the power of the commissioner to order overlapping gas supply acquisition service areas or gas supply transportation service areas for service of an area already being served by another transporter.

I. Any action taken by a transporter within a gas supply acquisition service area or gas supply transportation service area shall be subject to all other rules and regulations pursuant to R.S. 30:501 et seq. and the Louisiana Constitution of 1974.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 7:80 (March 1981), amended LR 21: (August 1995).

Ernest A. Burguières, III
Commissioner of Conservation

9508#019

RULE

Department of Natural Resources Office of Conservation

Pipeline Safety—Drug Testing/Alcohol Misuse (LAC 43:XIII.Chapters 31 and 33)

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation - Pipeline Safety

Subpart 1. General Provisions

Chapter 31. Drug Testing

§3101. Scope and compliance

A. This Chapter requires operators of pipeline facilities subject to CFR Part 192, 193, or 195 to test employees for the presence of prohibited drugs and provide an employee assistance program. However, this Chapter does not apply to operators of "master meter systems" as defined in §301 of this Chapter or to liquefied petroleum gas (LPG) operators.

B. - C. ...

D. This Chapter is not effective until August 20, 1995, with respect to any employee located outside the territory of the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134

(February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 21: (August 1995).

§3103. Definitions

* * *

Positive Rate—the number of positive results for random drug tests conducted under this Chapter plus the number of refusals of random tests required by this Chapter, divided by the total number of random drug tests conducted under this Chapter plus the number of refusals of random test required by this Chapter.

* * *

Refuse to Submit—a covered employee fails to provide a urine sample as required by 49 CFR Part 40, without a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement to be tested in accordance with the provisions of this Chapter, or engages in conduct that clearly obstructs the testing process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 21: (August 1995).

§3107. Anti-Drug Plan

A. Each operator shall maintain and follow a written anti-drug plan that conforms to the requirements of this Chapter and the DOT procedures. The plan must contain:

1. ...
2. the name and address of each laboratory that analyzes the specimens collected for drug testing; and
3. the name and address of the operator's medical review officer; and,
4. procedures for notifying employees of the coverage and provisions of the plan.

B. the administrator or the state agency that has submitted a current certification under Section 5(a) of the Natural Gas Pipeline Safety Act or Section 205(a) of the Hazardous Liquid Pipeline Safety Act with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 18:852 (August 1992), LR 21: (August 1995).

§3111. Drug Tests Required

A. Each operator shall conduct the following drug tests for the presence of a prohibited drug:

1. - 2. ...
- B.1. - 3. ...

C. Random Testing

1. Except as provided in Subsection C.2-4 of this Section, the minimum annual percentage rate for random drug

testing shall be 50 percent of covered employees.

2. The administrator's decision to increase or decrease the minimum annual percentage rate for random drug testing is based on the reported positive rate for the entire industry. All information used for this determination is drawn from the drug MIS reports required by this Chapter. In order to ensure reliability of the data, the administrator considers the quality and completeness of the reported data, may obtain additional information or reports from operators, and may make appropriate modifications in calculating the industry positive rate. Each year, the administrator will publish in the *Federal Register* the minimum annual percentage rate for random drug testing of covered employees. The new minimum annual percentage rate for random drug testing will be applicable starting January 1 of the calendar year following publication.

3. When the minimum annual percentage rate for random drug testing is 50 percent, the administrator may lower this rate to 25 percent of all covered employees if the administrator determines that the data received under the reporting requirements of §3125 for two consecutive calendar years indicate that the reported positive rate is less than 1 percent.

4. When the minimum annual percentage rate for random drug testing is 25 percent, and the data received under the reporting requirements of §3125 for any calendar year indicate that the reported positive rate is equal to or greater than 1 percent, the administrator will increase the minimum annual percentage rate for random drug testing to 50 percent of all covered employees.

5. The selection of employees for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

6. The operator shall randomly select a sufficient number of covered employees for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate for random drug testing determined by the administrator. If the operator conducts random drug testing through a consortium, the number of employees to be tested may be calculated for each individual operator or may be based on the total number of covered employees covered by the consortium who are subject to random drug testing at the same minimum annual percentage rate under this Chapter or any DOT drug testing rule.

7. Each operator shall ensure that random drug tests conducted under this Chapter are unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year.

8. If a given covered employee is subject to random drug testing under the drug testing rules of more than one DOT agency for the same operator, the employee shall be subject to random drug testing at the percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the employee's function.

9. If an operator is required to conduct random drug testing under the drug testing rules of more than one DOT agency, the operator may:

a. establish separate pools for random selection, with each pool containing the covered employees who are subject to testing at the same required rate; or

b. randomly select such employees for testing at the highest percentage rate established for the calendar year by any DOT agency to which the operator is subject.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:135 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 21: (August 1995).

§3117. Retention of Samples and Retesting

A. ...

B. If the MRO determines there is no legitimate medical explanation for a confirmed positive test result other than the unauthorized use of a prohibited drug, the original sample must be retested if the employee makes a written request for retesting within 60 days of receipt of the final test result from the MRO. The employee may specify retesting by the original laboratory that is certified by the Department of Health and Hospitals. The operator may require the employee to pay in advance the cost of shipment (if any) and reanalysis of the sample, but the employee must be reimbursed for such expense if the retest is negative.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:136 (February 1990), repromulgated LR 16:535 (June 1990), amended LR 21: (August 1995).

§3123. Recordkeeping

A. Each operator shall keep the following records for the periods specified and permit access to the records as provided by Subsection B of this Section:

1. ...

2. Records of employee drug test results that show employees who had a positive test, and the type of test (e.g., post-accident), and records that demonstrate rehabilitation, if any, must be kept for at least five years, and include the following information:

a. the function performed by each employee who had a positive drug test;

b. the prohibited drugs which were used by an employee who had a positive drug test;

c. the disposition of each employee who had a positive drug test or refused a drug test (e.g., termination, rehabilitation, removed from covered function, other).

3. Records of employee drug test results that show employees passed a drug test must be kept for at least one year.

4. - 5. ...

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:136 (February 1990), repromulgated LR 16:535 (June 1990), amended LR 21: (August 1995).

§3125. Reporting of Anti-Drug Testing Results

A. Each large operator (having more than 50 covered employees) shall submit an annual Management Information System MIS report to RSPA of its anti-drug testing results in the form and manner prescribed by the administrator, not later than March 15 of each year for the prior calendar year (January 1 - December 31). The administrator shall require by written notice that small operators (50 or fewer covered employees) not otherwise required to submit annual MIS reports to prepare and submit such reports to RSPA.

B. Each report, required under this section, shall be submitted to the Office of Pipeline Safety Compliance (OPS), Research and Special Programs Administration, Department of Transportation, Room 2335, 400 Seventh Street, SW., Washington, DC 20590.

C. Each report shall be submitted in the form and manner prescribed by the administrator. No other form, including another DOT Operating Administration's MIS form, is acceptable for submission to RSPA.

D. Each report shall be signed by the operator's anti-drug program manager or designated representative.

E. Each operator's report with verified positive test results or refusals to test shall include all of the following informational elements:

1. number of covered employees;
2. number of covered employees subject to testing under the anti-drug rules of another operating administration;
3. number of specimens collected by type of test;
4. number of positive test results, verified by a Medical Review Officer (MRO), by type of test and type of drug;
5. number of employee actions taken following verified positives, by type of actions;
6. number of negative tests reported by an MRO by type of test;
7. number of persons denied a position as a covered employee following a verified positive drug test;
8. number of covered employees, returned to duty during this reporting period after having failed or refused a drug test required under the RSPA rule;
9. number of covered employees with tests verified positive by an MRO for multiple drugs;
10. number of covered employees who refused to submit to a random or nonrandom (post-accident, reasonable cause, return-to-duty, or follow-up) drug test and the action taken in response to each refusal;
11. number of supervisors who have received required initial training during the reporting period.

F. Each operator's report with only negative test results shall include all of the following informational elements:

1. number of covered employees;
2. number of covered employees subject to testing under

the anti-drug rules of another operating administration;

3. number of specimens collected by type of test;
4. number of negative tests reported by an MRO by type of test;
5. number of covered employees who refused to submit to a random or nonrandom (post-accident, reasonable cause, return-to-duty, or follow-up) drug test and the action taken in response to each refusal;
6. number of supervisors who have received required initial training during the reporting period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

Chapter 33. Alcohol Misuse Prevention Program

§3301. Purpose

The purpose of this Chapter is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol by employees who perform covered functions for operators of certain pipeline facilities subject to LAC 43:XI, LAC 43:XIII, and LAC 33:V.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3303. Applicability

This Chapter applies to gas, hazardous liquid and carbon dioxide pipeline operators and liquefied natural gas operators subject to LAC 43:XI, LAC 43:XIII, and LAC 33:V. However, this Chapter does not apply to operators of master meter systems defined in LAC 43:XIII.303 or liquefied petroleum gas (LPG) operators as discussed in LAC 43:XIII.503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3305. Alcohol Misuse Plan

Each operator shall maintain and follow a written alcohol misuse plan that conforms to the requirements of this Chapter and the DOT procedures in 49 CFR part 40. The plan shall contain methods and procedures for compliance with all the requirements of this Chapter, including required testing, recordkeeping, reporting, education and training elements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3307. Alcohol Testing Procedures

Each operator shall ensure that all alcohol testing conducted under this Chapter complies with the procedures set forth in 49 CFR part 40. The provisions of 49 CFR part 40 that address alcohol testing are made applicable to operators by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3309. Definitions

As used in this Chapter:

Accident—an incident reportable under CFR part 191 involving gas pipeline facilities or LNG facilities, or an accident reportable under LAC 33:V involving hazardous liquid or carbon dioxide pipeline facilities.

Administrator—the administrator of the Research and Special Programs Administration (RSPA), or any person who has been delegated authority in the matter concerned.

Alcohol—the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.

Alcohol Concentration (or Content)—the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this Chapter.

Alcohol Use—the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Confirmation Test—a second test, following a screening test with a result 0.02 or greater, that provides quantitative data of alcohol concentration.

Consortium—an entity, including a group or association of employers, recipients, or contractors, that provides alcohol testing as required by this Chapter or other DOT alcohol testing rules and that acts on behalf of the operators.

Covered Employee—a person who performs on a pipeline or at an LNG facility an operation, maintenance, or emergency-response function regulated by LAC 43:XI, LAC 43:XIII, and LAC 33:V. *Covered employee* and *individual to be tested* have the same meaning for the purposes of this Chapter. The term covered employee does not include clerical, truck driving, accounting, or other functions not subject to LAC 43:XI, LAC 43:XIII, and LAC 33:V. The person may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor.

Covered Function (Safety-Sensitive Function)—an operation, maintenance, or emergency-response function that is performed on a pipeline or LNG facility and the function is regulated by LAC 43:XI, LAC 43:XIII, and LAC 33:V.

DOT Agency—an agency (or operating administration) of the United States Department of Transportation administering regulations requiring alcohol testing (14 CFR parts 61, 63, 65, 121, 135; 49 CFR parts 199, 219, 382, and 654) in accordance with 49 CFR part 40.

Employer or Operator—a person who owns or operates a pipeline or LNG facility subject to LAC 43:XI, LAC 43:XIII, and LAC 33:V.

Performing (a Covered Function)—an employee is considered to be performing a covered function (safety-sensitive function) during any period in which he or she is actually performing, ready to perform, or immediately available to perform such covered functions.

Refuse to Submit (to an Alcohol Test)—a covered employee fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement to be tested in accordance with the provisions of this Chapter, or engages in conduct that clearly obstructs the testing process.

Screening Test—an analytical procedure to determine whether a covered employee may have a prohibited concentration of alcohol in his or her system.

State Agency—an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under Section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 App. U.S.C. 1674) or Section 205 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 App. U.S.C. 2009).

Substance Abuse Professional—a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3311. Preemption of State and Local Laws

A. Except as provided in Subsection B, this Chapter preempts any state or local law, rule, regulation, or order to the extent that:

1. compliance with both the state or local requirement and this Chapter is not possible;
2. compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement in this Chapter; or
3. the state or local requirement is a pipeline safety standard applicable to interstate pipeline facilities.

B. This Chapter shall not be construed to preempt provisions of state criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or employers or to the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3313. Other Requirements Imposed by Operators

Except as expressly provided in this Chapter, nothing in this Chapter shall be construed to affect the authority of operators, or the rights of employees, with respect to the use or possession of alcohol, including authority and rights with respect to alcohol testing and rehabilitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3315. Requirement for Notice

Before performing an alcohol test under this Chapter, each operator shall notify a covered employee that the alcohol test is required by this Chapter. No operator shall falsely represent that a test is administered under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3317. Starting Date for Alcohol Testing Programs

A. Large Operators. Each operator with more than 50 covered employees on February 15, 1994 shall implement the requirements of this Chapter beginning on January 1, 1995.

B. Small Operators. Each operator with 50 or fewer covered employees on February 15, 1994 shall implement the requirements of this Chapter beginning on January 1, 1996.

C. All operators commencing operations after February 15, 1994 shall have an alcohol misuse program that conforms to this Chapter by January 1, 1996, or by the date an operator begins operations, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3319. Alcohol Concentration

Each operator shall prohibit a covered employee from reporting for duty or remaining on duty requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater. No operator having actual knowledge that a covered employee has an alcohol concentration of 0.04 or greater shall permit the employee to perform or continue to perform covered functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3321. On-Duty Use

Each operator shall prohibit a covered employee from using alcohol while performing covered functions. No operator having actual knowledge that a covered employee is using alcohol while performing covered functions shall permit the employee to perform or continue to perform covered functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3323. Pre-Duty Use

Each operator shall prohibit a covered employee from using alcohol within four hours prior to performing covered functions, or, if an employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty. No operator having actual knowledge that a covered employee has used alcohol within four hours prior to performing covered functions or within the

time period after the employee has been notified to report for duty shall permit that covered employee to perform or continue to perform covered functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3325. Use Following an Accident

Each operator shall prohibit a covered employee who has actual knowledge of an accident in which his or her performance of covered functions has not been discounted by the operator as a contributing factor to the accident from using alcohol for eight hours following the accident, unless he or she has been given a post-accident test under §3329.A, or the operator has determined that the employee's performance could not have contributed to the accident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3327. Refusal to Submit to a Required Alcohol Test

Each operator shall require a covered employee to submit to a post-accident alcohol test required under §3329.A.1, a reasonable suspicion alcohol test required under §3329.A.2, or a follow-up alcohol test required under §3329.A.4. No operator shall permit an employee who refuses to submit to such a test to perform or continue to perform covered functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3329. Alcohol Tests Required

Each operator shall conduct the following types of alcohol tests for the presence of alcohol:

1. Post-Accident

a. As soon as practicable following an accident, each operator shall test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer a test under this Section shall be based on the operator's determination, using the best available information at the time of the determination, that the covered employee's performance could not have contributed to the accident.

b. If a test required by this Section is not administered within two hours following the accident, the operator shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by Subsection A.1 is not administered within eight hours following the accident, the operator shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

c. For the years stated in this paragraph, employers who submit MIS reports shall submit to RSPA each record of

a test required by this section that is not completed within eight hours. The employer's records of tests that could not be completed within eight hours shall be submitted to RSPA by March 15, 1996; March 15, 1997; and March 15, 1998; for calendar years 1995, 1996, and 1997, respectively. Employers shall append these records to their MIS submissions. Each record shall include the following information:

- i. type of test (reasonable suspicion/post-accident);
- ii. triggering event (including date, time, and location);
- iii. employee category (do not include employee name or other identifying information);
- iv. reasons test could not be completed within eight hours; and,
- v. if blood alcohol testing could have been completed within eight hours, the name, address, and telephone number of the testing site where blood testing could have occurred.

d. A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the operator or operator representative of his/her location if he/she leaves the scene of the accident prior to submission to such test, may be deemed by the operator to have refused to submit to testing. Nothing in this Section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

2. Reasonable Suspicion Testing

a. Each operator shall require a covered employee to submit to an alcohol test when the operator has reasonable suspicion to believe that the employee has violated the prohibitions in this Chapter.

b. The operator's determination that reasonable suspicion exists to require the covered employee to undergo an alcohol test shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The required observations shall be made by a supervisor who is trained in detecting the symptoms of alcohol misuse. The supervisor who makes the determination that reasonable suspicion exists shall not conduct the breath alcohol test on that employee.

c. Alcohol testing is authorized by this Section only if the observations required by Paragraph 2.b of this Section are made during, just preceding, or just after the period of the work day that the employee is required to be in compliance with this Chapter. A covered employee may be directed by the operator to undergo reasonable suspicion testing for alcohol only while the employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing covered functions.

d.i. If a test required by this Section is not administered within two hours following the determination

under Paragraph 2.b of this Section, the operator shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this Section is not administered within eight hours following the determination under Paragraph 2.b of this Section, the operator shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. Records shall be submitted to RSPA upon request of the administrator.

ii. For the years stated in this Paragraph, employers who submit MIS reports shall submit to RSPA each record of a test required by this Section that is not completed within eight hours. The employer's records of tests that could not be completed within eight hours shall be submitted to RSPA by March 15, 1996; March 15, 1997; and March 15, 1998; for calendar years 1995, 1996, and 1997, respectively. Employers shall append these records to their MIS submissions. Each record shall include the following information:

- (a). type of test (reasonable suspicion/post-accident);
- (b). triggering event (including date, time, and location);
- (c). employee category (do not include employee name or other identifying information);
- (d). reasons test could not be completed within eight hours; and,
- (e). if blood alcohol testing could have been completed within eight hours, the name, address, and telephone number of the testing site where blood testing could have occurred.

iii. Notwithstanding the absence of a reasonable suspicion alcohol test under this Section, an operator shall not permit a covered employee to report for duty or remain on duty requiring the performance of covered functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, nor shall an operator permit the covered employee to perform or continue to perform covered functions, until:

- (a). an alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or
- (b). the start of the employee's next regularly scheduled duty period, but not less than eight hours following the determination under Paragraph 2.b of this Section that there is reasonable suspicion to believe that the employee has violated the prohibitions in this Chapter.

iv. Except as provided in Paragraph 2.d.ii, no operator shall take any action under this Chapter against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test. This does not prohibit an operator with the authority independent of this Chapter from taking any action otherwise consistent with law.

3. Return-to-Duty Testing. Each operator shall ensure that before a covered employee returns to duty requiring the performance of a covered function after engaging in conduct prohibited by §§3319-3327, the employee shall undergo a

return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

4. Follow-Up Testing

a. Following a determination under §3347.B that a covered employee is in need of assistance in resolving problems associated with alcohol misuse, each operator shall ensure that the employee is subject to unannounced follow-up alcohol testing as directed by a substance abuse professional in accordance with the provisions of §3347.C.2.i .

b. Follow-up testing shall be conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions.

5. Retesting of Covered Employees With an Alcohol Concentration of 0.02 or Greater but Less Than 0.04. Each operator shall retest a covered employee to ensure compliance with the provisions of §3341, if an operator chooses to permit the employee to perform a covered function within eight hours following the administration of an alcohol test indicating an alcohol concentration of 0.02 or greater but less than 0.04.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3331. Retention of Records

A. General Requirement. Each operator shall maintain records of its alcohol misuse prevention program as provided in this Section. The records shall be maintained in a secure location with controlled access.

B. Period of Retention. Each operator shall maintain the records in accordance with the following schedule:

1. Five Years. Records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater, documentation of refusals to take required alcohol tests, calibration documentation, employee evaluation and referrals, and MIS annual report data shall be maintained for a minimum of five years.

2. Two Years. Records related to the collection process (except calibration of evidential breath testing devices), and training shall be maintained for a minimum of two years.

3. One Year. Records of all test results below 0.02 (as defined in 49 CFR part 40) shall be maintained for a minimum of one year.

C. Types of Records. The following specific records shall be maintained:

1. Records related to the collection process:

a. collection log books, if used;

b. calibration documentation for evidential breath testing devices;

c. documentation of breath alcohol technician training;

d. documents generated in connection with decisions to administer reasonable suspicion alcohol tests;

e. documents generated in connection with decisions on post-accident tests;

f. documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing.

2. Records related to test results:

a. the operator's copy of the alcohol test form, including the results of the test;

b. documents related to the refusal of any covered employee to submit to an alcohol test required by this Chapter;

c. documents presented by a covered employee to dispute the result of an alcohol test administered under this Chapter.

3. Records related to other violations of this Chapter.

4. Records related to evaluations:

a. records pertaining to a determination by a substance abuse professional concerning a covered employee's need for assistance;

b. records concerning a covered employee's compliance with the recommendations of the substance abuse professional.

5. Records related to the operator's MIS annual testing data.

6. Records related to education and training:

a. materials on alcohol misuse awareness, including a copy of the operator's policy on alcohol misuse;

b. documentation of compliance with the requirements of §3335;

c. documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion;

d. certification that any training conducted under this Chapter complies with the requirements for such training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3333. Reporting of Alcohol Testing Results

A. Each large operator (having more than 50 covered employees) shall submit an annual management information system (MIS) report to RSPA of its alcohol testing results in the form and manner prescribed by the administrator, by March 15 of each year for the previous calendar year (January 1 - December 31). The administrator may require by written notice that a small operator (50 or fewer covered employees), not otherwise required to submit annual MIS reports, submit such a report to RSPA.

B. Each operator that is subject to more than one DOT agency alcohol rule shall identify each employee covered by the regulations of more than one DOT agency. The identification will be by the total number of covered employees. Prior to conducting any alcohol test on a covered employee subject to the rules of more than one DOT agency, the employer shall determine which DOT agency rule or rules authorizes or requires the test. The test result information shall be directed to the appropriate DOT agency or agencies.

C. Each report, required under this Section, shall be submitted to the Office of Pipeline Safety Compliance (OPS), Research and Special Programs Administration, Department of Transportation, Room 2335, 400 Seventh Street, SW., Washington, DC 20590.

D. Each report that contains information on an alcohol screening test result of 0.02 or greater or a violation of the alcohol misuse provisions of §§3319-3327 of this Chapter shall be submitted on "RSPA Alcohol Testing MIS Data Collection Form" and include the following informational elements:

1. number of covered employees;
2. number of covered employees subject to testing under the alcohol misuse rule of another operating administration by each agency;
 - 3.a. number of screening tests by type of test;
 - b. number of confirmation tests by type of test;
4. number of confirmation tests indicating an alcohol concentration of 0.02 or greater but less than 0.04, by type of test;
5. number of confirmation tests indicating an alcohol concentration of 0.04 or greater, by type of test;
6. number of covered employees with a confirmation test indicating an alcohol concentration of 0.04 or greater or who have violations of other alcohol misuse provisions who were returned to duty in covered positions (having complied with the recommendations of a substance abuse professional as described in §§3339 and 3347;
7. number of covered employees who were administered alcohol and drug tests at the same time, with both a positive drug test and an alcohol test indicating an alcohol concentration of 0.04 or greater;
8. number of covered employees who were found to have violated other provisions of §§3319-3325, and any action taken in response to the violation;
9. number of covered employees who refused to submit to an alcohol test required under this Chapter, and the action taken in response to the refusal;
10. number of supervisors who have received required training during the reporting period in determining the existence of reasonable suspicion of alcohol misuse.

E. Each report with no screening alcohol test results of 0.02, or greater or violations of the alcohol misuse provisions of §§3319-3327 of this Chapter shall be submitted on "RSPA Alcohol Testing MIS Data Collection EZ Form" and include the following informational elements. (This "EZ" report may only be submitted if the programs results meet these criteria):

1. number of covered employees;
2. number of covered employees subject to testing under the alcohol misuse rule of another operating administration identified by each agency;
3. number of screening tests by type of test;
4. number of covered employees who refused to submit to an alcohol test required under this Chapter, and the action taken in response to the refusal;
5. number of supervisors who have received required training during the reporting period in determining the existence of reasonable suspicion of alcohol misuse.

F. A consortium may prepare reports on behalf of individual pipeline operators for purposes of compliance with this reporting requirement. However, the pipeline operator shall sign and submit such a report and shall remain responsible for ensuring the accuracy and timeliness of each report prepared on its behalf by a consortium.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3335. Access to Facilities and Records

A. Except as required by law or expressly authorized or required in this Chapter, no employer shall release covered employee information that is contained in records required to be maintained in §3331.

B. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his or her alcohol tests. The operator shall promptly provide the records requested by the employee. Access to a employee's records shall not be contingent upon payment for records other than those specifically requested.

C. Each operator shall permit access to all facilities utilized in complying with the requirements of this Chapter to the secretary of transportation, any DOT agency, or a representative of a state agency with regulatory authority over the operator.

D. Each operator shall make available copies of all results for employer alcohol testing conducted under this Chapter and any other information pertaining to the operator's alcohol misuse prevention program, when requested by the secretary of transportation, any DOT agency with regulatory authority over the operator, or a representative of a state agency with regulatory authority over the operator. The information shall include name-specific alcohol test results, records, and reports.

E. When requested by the National Transportation Safety Board as part of an accident investigation, an operator shall disclose information related to the operator's administration of any post-accident alcohol tests administered following the accident under investigation.

F. An operator shall make records available to a subsequent employer upon receipt of the written request from the covered employee. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the employee's written request.

G. An operator may disclose information required to be maintained under this Chapter pertaining to a covered employee to the employee or the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol test administered under this Chapter, or from the operator's determination that the covered employee engaged in conduct prohibited by §§3319-3327 (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee).

H. An operator shall release information regarding a covered employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3337. Removal from Covered Function

Except as provided in §§3343-3347, no operator shall permit any covered employee to perform covered functions if the employee has engaged in conduct prohibited by §§3319 through 3327 or an alcohol misuse rule of another DOT agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3339. Required Evaluation and Testing

No operator shall permit a covered employee who has engaged in conduct prohibited by §§3319-3327 to perform covered functions unless the employee has met the requirements of §3347.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3341. Other Alcohol-Related Conduct

A. No operator shall permit a covered employee tested under the provisions of §3329, who is found to have an alcohol concentration of 0.02 or greater but less than 0.04, to perform or continue to perform covered functions, until:

1. the employee's alcohol concentration measures less than 0.02 in accordance with a test administered under §3329.A.5; or
2. the start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.

B. Except as provided in Subsection A of this Section, no operator shall take any action under this Chapter against an employee based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an operator with authority independent of this Chapter from taking any action otherwise consistent with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3343. Operator Obligation to Promulgate a Policy on the Misuse of Alcohol

A. **General Requirements.** Each operator shall provide educational materials that explain these alcohol misuse requirements and the operator's policies and procedures with respect to meeting those requirements.

1. The operator shall ensure that a copy of these materials is distributed to each covered employee prior to start of alcohol testing under this Chapter, and to each person subsequently hired for or transferred to a covered position.

2. Each operator shall provide written notice to representatives of employee organizations of the availability of this information.

B. **Required Content.** The materials to be made available to covered employees shall include detailed discussion of at least the following:

1. the identity of the person designated by the operator to answer covered employee questions about the materials;

2. the categories of employees who are subject to the provisions of this Chapter;

3. sufficient information about the covered functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with this Chapter;

4. specific information concerning covered employee conduct that is prohibited by this Chapter;

5. the circumstances under which a covered employee will be tested for alcohol under this Chapter;

6. the procedures that will be used to test for the presence of alcohol, protect the covered employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee;

7. the requirement that a covered employee submit to alcohol tests administered in accordance with this Chapter;

8. an explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences;

9. the consequences for covered employees found to have violated the prohibitions under this Chapter, including the requirement that the employee be removed immediately from covered functions, and the procedures under §3347;

10. the consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04;

11. information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol including intervening when an alcohol problem is suspected, confrontation, referral to any available EAP, and/or referral to management.

C. **Optional Provisions.** The materials supplied to covered employees may also include information on additional operator policies with respect to the use or possession of alcohol, including any consequences for an employee found to have a specified alcohol level, that are based on the operator's authority independent of this Chapter. Any such additional policies or consequences shall be clearly described as being based on independent authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3345. Training for Supervisors

Each operator shall ensure that persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under §3329.A.2 receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3347. Referral, Evaluation, and Treatment

A. Each covered employee who has engaged in conduct prohibited by §§3319 - 3327 of this Chapter shall be advised of the resources available to the covered employee in evaluating and resolving problems associated with the misuse of alcohol, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

B. Each covered employee who engages in conduct prohibited under §§3319 - 3327 shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse.

C.1. Before a covered employee returns to duty requiring the performance of a covered function after engaging in conduct prohibited by §§3319 - 3327 of this Chapter, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

2. In addition, each covered employee identified as needing assistance in resolving problems associated with alcohol misuse:

a. shall be evaluated by a substance abuse professional to determine that the employee has properly followed any rehabilitation program prescribed under Subsection B of this Section and

b. shall be subject to unannounced follow-up alcohol tests administered by the operator following the employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the employee's return to duty. In addition, follow-up testing may include testing for drugs, as directed by the substance abuse professional, to be performed in accordance with 49 CFR part 40. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

D. Evaluation and rehabilitation may be provided by the operator, by a substance abuse professional under contract with the operator, or by a substance abuse professional not affiliated with the operator. The choice of substance abuse professional and assignment of costs shall be made in accordance with the operator/employee agreements and operator/employee policies.

E. The operator shall ensure that a substance abuse professional who determines that a covered employee requires assistance in resolving problems with alcohol misuse does not refer the employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This Subsection does not prohibit a substance abuse

professional from referring an employee for assistance provided through:

1. a public agency, such as a state, county, or municipality;

2. the operator or a person under contract to provide treatment for alcohol problems on behalf of the operator;

3. the sole source of therapeutically appropriate treatment under the employee's health insurance program; or

4. the sole source of therapeutically appropriate treatment reasonably accessible to the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

§3349. Contractor Employees

With respect to those covered employees who are contractors or employed by a contractor, an operator may provide by contract that the alcohol testing, training and education required by this Chapter be carried out by the contractor provided:

1. the operator remains responsible for ensuring that the requirements of this Chapter and 49 CFR part 40 are complied with; and

2. the contractor allows access to property and records by the operator, the administrator, any DOT agency with regulatory authority over the operator or covered employee, and, if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purposes of monitoring the operator's compliance with the requirements of this Chapter and 49 CFR part 40.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21: (August 1995).

Ernest A. Burguières, III
Commissioner

9508#022

RULE

**Department of Natural Resources
Office of the Secretary
Coastal Management Division**

Mitigation (LAC 43:I.Chapter 7)

In accordance with R.S. 49:214.41 and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of the Secretary, amends LAC Title 43, Part I, Chapter 7.

The amendment:

1. reorganizes Chapter 7 into six subchapters, of which Subchapter A combines pre-existing definitions and new definitions to support the newly inserted §724;

2. inserts §724 (Rules and Procedures for Mitigation); and
 3. modifies the existing §723 to link §724 to the remainder of the rule.

The amended rule establishes specific procedures for avoiding and minimizing adverse impacts identified in the permit review process, restoring impacted sites when appropriate, quantifying anticipated unavoidable wetland ecological value losses, requiring appropriate and sufficient compensatory mitigation, establishing mitigation banks, establishing advanced mitigation projects, and evaluating and processing requests for variances from the compensatory mitigation requirement.

The amended rule establishes the following fees:

1. compensatory mitigation processing fee;
2. mitigation bank fees (initial evaluation, habitat evaluation, establishment, and periodic review);
3. advance mitigation project fees (initial evaluation, establishment, post-implementation evaluation, and periodic review); and
4. compensatory mitigation variance request fee.

Collected fees would be used to meet one half of the costs associated with four positions which will be assigned to compensatory mitigation and other costs associated with implementing the amended rule; the remaining costs are absorbed by federal funds.

The amended rule reflects the input received by the department from state and federal agencies, development interests, landowners, environmental interests, and local governments during the periods of July, 1992 through December, 1993 and October, 1994 through May, 1995.

Copies of the amended rule may be obtained from the Office of the State Register, 1951 Riverside North, Baton Rouge, LA 70804.

Jack McClanahan
 Secretary

9508#031

RULE

**Department of Social Services
 Office of Community Services**

Limitation of Funds for Treatment (LAC 67:V.203)

The Department of Social Services, Office of Community Services, hereby adopts the following rule. This rule limits the use of Office of Community Service funds for treatment to a six-month period to make more effective use of available funds and to avoid deficit spending.

**Title 67
 SOCIAL SERVICES**

**Part V. Office of Community Services
 Subpart 3. General Administration**

Chapter 2. Treatment

§201. Reserved

§203. Limitation of Funds for Treatment

A. The purpose of establishing limits on the duration of formal therapy is to encourage the more effective use of available funds and achieve consistency between delivery of treatment and program policy which calls for short term service provision and timely achievement of permanency goals.

B. Treatment of child protection and family services clients and for clients in services to parents (SP) cases in the Foster Care Program will be time-limited and goal directed. No individual, family, or other treatment for these clients shall exceed six months. The only exception is for SP cases. In SP cases, two extensions of up to three months each may be authorized if it appears, based on a review of a detailed treatment plan and current case information, that the goal of reunification or adoption can reasonably be achieved during this time. Treatment in SP cases involving children whose permanency goal is other than reunification or adoption shall not exceed six months.

AUTHORITY NOTE: Promulgated in accordance with Act 15 of 1994 (State Appropriations bill).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21: (August 1995).

Gloria Bryant-Banks
 Secretary

9508#059

RULE

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

Flood Insurance (LAC 67:III.4702)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.Subpart 10, Individual and Family Grant (IFG) Program.

Pursuant to Public Law 103-325, the National Flood Insurance Reform Act of 1994, changes in regulations for the Individual and Family Grant Program were made at 44 CFR 206.131. As a condition of eligibility for assistance, applicants who reside in a flood zone were previously required to purchase and maintain flood insurance for a period of three years. Applicants will now be required to maintain the insurance for as long as they reside on the property.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 10. Individual and Family Grant Program

Chapter 47. Application, Eligibility, and Furnishing Assistance

Subchapter C. Need and Amount of Assistance

§4702. Flood Insurance

A. In order to be eligible for assistance under the IFG Program, an individual or family residing on property located in a flood hazard zone and whose losses are the result of flooding must agree to purchase adequate flood insurance and maintain such insurance for as long as they live in the home. This maintenance provision also applies to individuals who buy, or otherwise have transferred to them, any real estate for which flood insurance maintenance has been required.

* * *

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and P.L. 93-288.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:444 (June 1989), LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1351 (December 1992), LR 19:167 (February 1993), LR 19:213 (February 1993), LR 19:606 (May 1993), LR 19:784 (June 1993), LR 20:449 (April 1994), LR 21:403 (April 1995), LR 21: (August 1995).

Gloria Bryant-Banks
Secretary

9508#057

RULE

**Department of Social Services
Office of Rehabilitation Services**

Policy Manual (LAC 67:VII.101)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) has revised its policy to allow the agency to provide continuing services to applicants and clients.

The purpose of this rule is to assure that funds will be available to provide for the health, safety, and welfare for all clients of the agency by implementing certain cost containment measures. These cost containment policies are being instituted to ensure that all clients of LRS are evaluated concerning their ability to contribute to the cost of their vocational rehabilitation program which has, as the ultimate goal, a successful employment outcome.

Title 67

SOCIAL SERVICES

Part VII. Louisiana Rehabilitation Services

Chapter 1. General Provisions

§101. Policy Manual

LRS Policy Manual provides opportunities for employment outcomes and independence to individuals with disabilities through vocational and other rehabilitation services. Its policy manual guides its functions and governs its actions within the parameters of federal law.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:189 (February 1995), amended LR 21: (August 1995).

The entire Policy Manual may be viewed at Louisiana Rehabilitation Services State Office, 8225 Florida Boulevard, Baton Rouge, LA 70806, at the nine Louisiana Rehabilitation Services Regional Offices (statewide) or at the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802.

Gloria Bryant-Banks
Secretary

9508#058

RULE

**Department of Social Services
Office of Rehabilitation Services**

**Sign Language Interpreter Certification
(LAC 67:VII.1301)**

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS), Louisiana Commission for the Deaf has amended rules affecting the certification of sign language interpreters.

The purpose of this rule is to provide revisions to the rules governing the procedures/standards used in the evaluation and certification of sign language interpreters and list the qualifications of individuals who are eligible for certification at various skill levels.

Title 67
SOCIAL SERVICES
Part VII. Rehabilitation Services
Chapter 13. State Sign Language Interpreter
Certification Standards
§1301. Certification Standards

* * *

B. Examinations. The State Certification Program includes the following:

1. Screening. To begin the certification process, the candidate must rate an advanced level or higher of Sign Language skills, as measured by the Sign Language Proficiency Interview or Sign Communication Proficiency Interview.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S.46:2351-2354.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 17:389 (April 1991), amended LR 18:968 (September 1992), LR 19: (April 1993), LR 21: (August 1995).

Copies of the entire text of amended §1301 may be obtained at Louisiana Rehabilitation Services headquarters, 8225 Florida Boulevard, Baton Rouge, LA; at each of its nine regional offices (statewide); and at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

Gloria Bryant-Banks
Secretary

9505#060

RULE

Department of Social Services
Office of the Secretary

Child Care Assistance Program (LAC 67:I.Chapter 1)

The Department of Social Services, Office of the Secretary hereby adopts the following rule in the Child Care Assistance Program effective September 1, 1995.

This rule revises payment formulas and standard rates in the Child Care Assistance Program.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Chapter 1. Child Care Assistance Program

§103. Funding Availability and Waiting Lists

A. Louisiana's share of the national total of available funds for child care programs is based on factors determined by federal law and regulation. Funds are appropriated by Congress, and allocated on an annual basis. The number of children that can be served by the Child Care Assistance Program is limited by the amount of funding available.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and Parts 255 and 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19:1441 (November 1993), LR 20:460 (March 1994), LR 20:900 (August 1994), LR 21: (August 1995).

§105. Child Care Providers

A. - C. ...

D. Family day care home providers and in-home child care providers must be at least 18 years of age, and provide verification of Social Security number and residence, to be eligible for participation. Under the Child Care and Development Block Grant, relatives providing child care to only grandchildren, nieces and/or nephews must apply for registration as family day care homes, and must meet registration requirements within one year. The use of funds for sectarian worship or instruction, or the purchase of land or buildings, is prohibited.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19:659 (May 1993), LR 19:784 (June 1993), LR 19:1034 (August 1993), LR 19:695 (November 1993), LR 20:459 (April 1994), LR 21: (August 1995).

§107. Payments

A. - B. ...

C. The following four levels will be used to determine the number of hours authorized for payment:

1. Level 1: 1-10 hours each week = 40 hours authorized per four-week period;
2. Level 2: 11-20 hours each week = 80 hours authorized per four-week period;
3. Level 3: 21-30 hours each week = 120 hours authorized per four-week period;
4. Level 4: 31 or more hours/week = 160 hours authorized per four-week period;
5. number of hours authorized is based on the lesser of:
 - a. the number of hours the child is actually in care each week; or
 - b. the number of hours the parent or guardian is working and/or attending a job training or educational program each week. For households with two parents or guardians, the hours for the individual with the lesser number are used. For children in care for more than 20 hours a week and attending school, the hours that the parent or guardian works and/or attends school or training while the child is in school are deducted from the total hours that the parent or guardian works and/or attends school or training.

D. Payments are based on the number of hours as determined in C, above, paid at a standard hourly rate of \$1.38 for children under age 2 in a Class A center, or \$1.25 for all other children. If the provider charges a higher rate for a child verified to need special child care services (specialized facilities, lower staff ratio and/or specialized training to meet

the developmental and physical needs of the child) because of a mental, physical or emotional disability, the standard hourly rate for such special needs child care is \$1.72 for children under age 2 in a Class A center, or \$1.56 for all other children.

E. The payment amount for each four-week period is a percentage as shown in Subsection A of this section, based on the household's countable monthly income, that is applied to the number of authorized hours and the standard hourly rate as determined in Subsections C and D of this section.

F. Payment will not be made for more than one week of absence by a child in any four-week period. Payment will not be made for an extended closure by a provider of more than five consecutive days in any calendar month.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:1269 (November 1992), amended LR 19:695 (November 1993), LR 20:459 (April 1994), LR 21: (August 1995).

Gloria Bryant-Banks
Secretary

9508#056

NOTICES OF INTENT

NOTICE OF INTENT

Department of Culture, Recreation and Tourism
Office of the State Library

Public Library Construction/Technology
Enhancements (LAC 25:VII.2105)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Office of the State Library intends to amend the following rules and regulations. The changes will have no economic impact on the budget of the state, nor are fees involved. The revisions and changes herein refer to rules published in:

Title 25 CULTURAL RESOURCES

Part VII. State Library of Louisiana

Subpart 3. Library Development

Chapter 21. Public Library Construction/Technology Enhancement

§2105. Rules Governing Administration of the Act

A. - B. ...

C. The facility must meet standards as set forth in Standards for Public Libraries in Louisiana (1995).

D. - G. ...

H. Local matching funds must be public funds for library construction/technology enhancement and on deposit with the parish, the municipal corporation, or the parish municipality. Separate financial records must be maintained for the building/technology enhancement project.

I. All applicable regulations of the Public Contract, Work and Improvements Law, Louisiana Revised Statutes 38:2211 et seq. must be adhered to for the library construction/technology enhancement.

J. As soon as the construction/technology enhancement contract is signed one complete copy must be sent to the State Library of Louisiana.

K. ...

L. All equipment must be purchased on the basis of awards to the lowest qualified bidder on the basis of open competitive bidding, and according to state and local laws and regulations. In the case of technology enhancement, L.R.S. 38:2234 may be applicable.

M. - Q. ...

R. Should the State Library receive more correct, properly completed and eligible applications than can be funded, it will first fund those applications:

1. proposing facilities to serve as a center/headquarters for the library system;
2. proposing facilities serving parishes in which the average family income is less than the average family income for the state;
3. proposing facilities for a library system which has not received a prior LSCA Title II construction grant;
4. proposing facilities for which the local construction funds are readily available.

S. Should the State Library receive more correct, properly completed and eligible applications than can be funded, it will first fund the technology enhancement projects:

1. impacting statewide or regional library services and resource sharing;
2. impacting parish wide library services;
3. assisting individual libraries with needed services;
4. enhancing library services in parishes where the average family income is less than the average family income for the state.

T. - U. ...

V. Public library construction/technology enhancement projects must follow local and federal regulations guiding urban development, environmental impact and protection, and intergovernmental cooperation currently in force.

W. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Adopted by the Louisiana State Library, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 18:1356 (December 1992), LR 21:

Persons interested may submit written comments on the proposed changes by September 30, 1995 to: Thomas F. Jaques, State Librarian, State Library of Louisiana, Box 131, Baton Rouge, LA 70821-0131.

Mark Hilzlim
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: State Library Construction/Technology
Enhancement**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The rule amendments have no fiscal or economic impact on state or local governmental units. Changes will expand the parameters of the LSCA Title II construction grant program and will clarify priorities for awards, but will not increase federal appropriation available for awards.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The rule amendments do not involve revenue collections of the state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

The rule amendments will not cost the affected persons any funds; federal funds (Library Services and Construction Act, Title II) can benefit library users through awarded grants, providing matching funds for new library building construction, or matching funds for technology for library operations.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The rule amendments do not affect competition and employment.

Thomas F. Jaques
Assistant Secretary
9508#025

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Licensing Board for Contractors**

Examination (LAC 46:XXIX.Chapter 5)

At its meeting on February 16, 1995, the State Licensing Board for Contractors made a motion which unanimously passed to propose the following new rules.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXIX. Contractors

Chapter 5. Examination

§513. Cheating

A. Anyone found using unauthorized code books, text books, pagers, beepers, cellular telephones, tape recorders, radio transmitters, portable scanning devices, cameras, portable photocopy machines, reference materials, notes, blank writing or note paper, or any other aid or electronic device not specifically provided by the Examination Section for the purpose of examination administration shall have his or her examination paper confiscated, the exam results invalidated, and shall have his or her name placed on the agenda for the board's next regularly scheduled meeting for consideration and appropriate action. Failure to appear before the board shall result in the imposition of a one-year waiting period before the applicant may retake the examination(s).

B. It is the policy of the board that the specific contents of its examinations are considered to be proprietary and confidential. Anyone found in possession of examination questions, answers, or drawings in whole or in part shall have his or her examination paper confiscated, the exam results invalidated, shall be barred from taking any other examination, and shall not be eligible to become a qualifying party for the licensee for a period of one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150- 2164.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 21:

§515. Examination Scheduling and Rescheduling

A. A candidate may request three dates upon which he or she will be available to take the examination. An attempt will be made to accommodate the candidate. New applicants for licensure will be given priority in scheduling.

B. A candidate shall have until five working days prior to the scheduled examination date in which to cancel the examination. A candidate who fails to make notification before the five-day period or a candidate who fails to appear on the scheduled examination date shall forfeit his or her examination fee and be required to submit a new examination fee before a new examination date will be scheduled. Valid explanations for failing to meet this requirement must be submitted in writing and will be evaluated on a case-by-case basis.

C. All requests for rescheduling examinations must be submitted in writing.

D. A candidate who fails an examination may schedule a second attempt 30 days or more after the date on which he or she failed the first examination.

E. A candidate who fails an examination a second time may schedule a third attempt 60 days or more after the date on which he or she failed the second examination.

F. A candidate who fails an examination the third time may not schedule another attempt until one calendar year has

elapsed from the first time the candidate attempted the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150- 2164.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 21:

§517. Examination Administration Procedures

A. Administrative check-in procedures begin one-half hour before the examinations begin. Candidates must report to the board office for processing at least 15 minutes prior to the examination's starting time. Any candidate reporting after the 15-minute reporting time may not be allowed admittance to the examination room.

B. Personal items (e.g., telephones, pagers, calculators, purses, briefcases, etc.) are to be placed in the front of the testing room or may be secured in a candidate's personal vehicle. A candidate shall not have access to these items during examination administration.

C. A candidate wearing bulky clothing or attire which would facilitate concealment of prohibited materials shall be requested to leave said clothing or attire outside the examination room or to remove it and place it in the front of the examination room. Failure to remove the article shall constitute permission to search for contraband materials, or a cancellation of his or her scheduled examination, at the option of the candidate.

D. All examination activities are subject to being filmed, recorded, or monitored.

E. A candidate taking an examination shall not be allowed access to telephones or other communication devices during the course of the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150- 2164.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 21:

§519. Test Item Challenges

A. A candidate who believes that an individual test item may not have a correct answer or may have more than one correct answer shall be afforded an opportunity to challenge the test item. The candidate shall record his or her comments in writing on a form prepared by the test monitor immediately after the examination. Comments will not be accepted at any other time. Comments should provide a detailed explanation as to why the candidate feels the item is incorrect. General comments (e.g., "This item is wrong.") will not be investigated.

B. Examination comments shall be reviewed. Comments on test items from examinations developed in-house shall be reviewed in-house. Comments on test items from examinations developed by consultants shall be forwarded to same for review. Candidates shall be notified in a timely manner regarding the validity of their comments.

C. If a test item comment is deemed to be valid, the director of the Applications and Examinations Section shall prepare a memorandum explaining the comment. This memorandum will be reviewed by the Testing and

Classification Committee. Only the Testing and Classification Committee shall have the authority to change a grade based upon test item comment(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150- 2164.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 21:

§521. Examination Reviews

A. The Business and Law examination may not be reviewed.

B. A candidate may at any time request a breakdown of his or her examination performance based upon the subject content of the examination. Insofar as is possible, the breakdown will provide a candidate with the total number of questions answered incorrectly within a subject area. The candidate will be advised of areas of strength and weakness.

C. A candidate who has failed an examination twice may request in writing a review of his or her failed examinations. A date and time will be established for the review. The candidate who took the examination is the only person allowed to review the examination. No other parties may be present.

D. The review shall consist of a reading of the test items that the candidate answered incorrectly, the possible answer choices, and the answer that the candidate recorded on the answer sheet.

E. No discussions regarding the merits of the candidate's answers, discussions designed to elicit the correct answer, or discussions regarding the merits of the test item are permitted.

F. A candidate participating in an examination review shall not have in his or her possession or on his or her person any electronic recording device, microphone, tape recorder, cellular telephone, camera, radio transmitter, voice-activated tape recorder, portable scanner or photocopier, paper or writing instruments, or any other device designed to record information regarding the incorrectly answered test items.

G. A candidate wearing bulky clothing or attire designed to facilitate concealment of prohibited materials will not be allowed to review his or her examination.

H. Any person seeking relief from any of these rules shall have the option of appearing before the board to present an explanation of the situation whereupon the board may determine the appropriate action. Any person wishing to avail himself or herself of this Section should contact the board administrator to have his request placed on the Agenda for consideration at the next regularly-scheduled board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150- 2164.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 21:

Interested persons may submit written comments to Joy Evans, Administrator, State Licensing Board for Contractors, Box 14419, Baton Rouge, LA (70898). Comments will be accepted through the close of business on September 20, 1995.

Joy Evans
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Examination Administration

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no extra costs or savings accompanying the implementation of these rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of the implementation of these rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups as a result of the implementation of these rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment of the general public or the department as a result of the implementation of these rules.

Joy Evans
Administrator
9508#024

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Office of Financial Institutions**

Financial Institution Agency Activities (LAC 10:I.507)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:539, the commissioner hereby gives notice of intent to adopt the following rule to implement the provisions of Act 2448 of 1995 to provide for the establishment and regulation of agency activities by Louisiana state-chartered financial institutions.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part I. Financial Institutions

Chapter 5. Powers

§501. Financial Institution Agency Activities

A. Definitions

Agency Agreement—the document which establishes the agency relationship between the Louisiana state-chartered financial institution and any other financial institution.

Applicant—a Louisiana state-chartered financial institution seeking the prior approval of the Commissioner to engage in agency activities as principal or as agent.

Close Loans—the authority to provide loan applications, review documentation, provide loan account information, service loans and receive payments.

Commissioner—the commissioner of Financial Institutions.

Financial Institution—any bank, savings bank, homestead association, building and loan association or savings and loan association.

Notification—consists of all forms prescribed by the commissioner, submitted in a completed form, along with all supporting documents and other information required by this rule.

Receive Deposits—the taking of any additional deposit. This does not include the acceptance of a deposit which will result in the opening of a new deposit account.

B. Notification

1. Filing. All notifications filed in accordance with this rule shall be accompanied by a nonrefundable fee as prescribed by the commissioner and shall be in such form and contain such information as the commissioner may from time to time prescribe. The notification shall be filed at least 30 days prior to the effective date of the agreement. When the notification is submitted, an original and one copy must be provided. The commissioner may approve a substantially complete notification after consideration of the factors set forth in the following sections. A reasonable amount of time may be utilized in the analysis of these factors and additional information may be requested. The prior approval of the applicant's board of directors is required before filing the notification. Substantially incomplete notifications will not be accepted for filing and will be returned to the applicant resulting in a processing delay.

2. Form. The applicant shall, at least 30 days prior to the effective date of the agency agreement, provide notification to the commissioner which includes:

a. the name, address and phone number of the applicant as well as the name of a contact person to which questions regarding the application and notification may be directed;

b. the name, address and phone number of the financial institution which is entering the agency relationship with the applicant;

c. a description of the services proposed to be performed under the agency agreement including, but not limited to, those permissible activities as enumerated in Subsection C.1;

d. a copy of the agency agreement;

e. evidence that the applicant's bonding company has been notified;

f. a copy of a resolution of the board of directors authorizing the establishment of the agency relationship; and

g. if applicable, a "No Objection Letter" from the appropriate chartering authority for the financial institution providing the agency services for the Louisiana state-chartered financial institution. This provision is only applicable when a Louisiana state-chartered financial institution enters into a relationship with a financial institution in which the out-of-state financial institution will act as agent for the Louisiana state-chartered financial institution.

3. Approval Process. The commissioner may approve any request to establish an agency relationship unless he finds

that the proposed operation violates the provisions of this rule or any other pertinent provision of law. The commissioner may, in his sole discretion, provide written reasons for his decision, which shall be released only to the applicant.

C. Activities

1. Permissible Activities. Any Louisiana state-chartered financial institution may, upon compliance with the requirements of this rule:

a. as agent for any financial institution, agree to receive deposits, renew time deposits, close loans, service loans, receive payments on loans and other obligations, and perform other services with the prior approval of the commissioner;

b. as agent for a Louisiana state-chartered financial institution, enter into an agency relationship with any other financial institution to allow the other financial institution to receive deposits, renew time deposits, close loans, service loans, receive payments on loans and other obligations, and perform other services with the prior approval of the commissioner;

2. Prohibited Activities. A Louisiana state-chartered financial institution, operating under the authority of an agency agreement, may not:

a. conduct any activity as agent that it would be prohibited from conducting as principal under applicable state or federal law;

b. have an agent conduct any activities that the financial institution as principal would be prohibited from conducting under applicable state or federal law;

c. as agent for another financial institution, make a credit decision on a loan. Only the principal may make the decision to extend credit; or

d. as agent for another financial institution, open a deposit account.

3. Other Activities. If any proposed activity is not specifically designated in Subsection C.1 and has not been previously approved in a regulation issued by the commissioner, the commissioner shall decide whether the performance of such activity would be consistent with applicable state and federal law and the safety and soundness of the Louisiana state-chartered financial institution.

4. Additional Activities

a. If a Louisiana state-chartered financial institution which has an established agency relationship desires to expand its activities to include activities not already approved, the applicant shall notify the commissioner of the change. The notification shall provide a complete description of the proposed new activity and shall also include a copy of the new agency agreement. If only a section of the existing agreement is required to be amended, the institution may submit a copy of the amendment in lieu of the entire agreement. The commissioner shall decide if this activity is consistent with applicable state and federal laws and the safety and soundness of the Louisiana state-chartered financial institution. The financial institution will be given written notice as to the permissibility of the proposed activity by the commissioner.

b. Should a financial institution, as an agent, close

loans at a location other than its main office or any branch facility, a loan production office application may be required.

D. Cessation of an Agency Relationship

1. Voluntary Cessation

a. Written notification to the commissioner is required upon the cancellation of an agency relationship.

b. The financial institution shall post a notice at least 30 days prior to the effective date of termination of the financial institution's intention to cease the agency relationship. The notice shall be posted at its main office and at any other location where business was conducted under an agency capacity.

2. Involuntary Cessation. The commissioner may order a Louisiana state-chartered financial institution or any other financial institution subject to the commissioner's enforcement powers to cease acting as agent or principal under any agency agreement with a financial institution that the commissioner finds to be inconsistent with safe and sound banking practices.

E. Other

1. Any request for an exception and/or waiver of any provision of this rule requires the written approval of the commissioner.

2. By no means shall any Louisiana state-chartered financial institution serving as agent for another financial institution be deemed to be a branch of the other financial institution.

3. The commissioner shall impose a fee for this notification in accordance with this Office's Fees and Assessments rule.

4. This rule shall become effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with Act 2448 of 1995.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 21:

Any interested person may submit written comments regarding the contents of this proposed rule to John P. Ducrest, Deputy Chief Examiner, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 5 p.m., September 15, 1995.

Larry L. Murray
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Financial Institution Agency Activities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost for this regulation will be the initial rule notification expense of \$390. The agency anticipates that no new hardware, employee costs, or professional services will be required to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on the revenue collections of local

governmental units. The net effect on state governmental revenues will be zero. While the proposed rule will result in a very minimal amount of notification fees being generated, the additional fee income will be used to offset current period expenditures, thereby lowering the level of financial institution assessment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only estimated costs associated with the implementation of this rule for persons or nongovernmental groups directly affected will be those associated with the preparation of the notification to establish agency relationships and the cost of the notification fee. The establishment of agency relationships has the potential to create more business opportunities for state-chartered Louisiana financial institutions by providing them the opportunity to provide services on behalf of another financial institution and thereby enhance its earnings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This office expects no significant change in competition or employment in the public or private sector. This rule was necessitated by federal legislation which will allow nationally-chartered banks to act in an agency capacity for another depository institution. This rule will provide Louisiana state-chartered financial institution parity with their national bank counterparts in this area.

Larry L. Murray
Commissioner
9508#066

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

Loan Production Offices (LAC 10:I.309) Repeal of LAC 10:XV.1133

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:452, the commissioner hereby gives notice of intent to amend the existing rule in LAC 10:XV.1133, General Provisions, regarding the establishment and supervision of financial institution loan production offices and recodify the rule under LAC 10:I.309, Application for Loan Production Office (LPO), to reflect various revisions in the LPO application process.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 11. Loan Production Offices

Subchapter A. Applications

§1133. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 112 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1095 (October 1994), repealed LR 21:

Part I. Financial Institutions (formerly Part I. Banks)

Chapter 3. Applications

§309. Application for Loan Production Office (LPO)

A. Definitions

Applicant—a financial institution seeking a certificate of authority from the commissioner.

Application—shall consist of forms prescribed by the commissioner, submitted in a completed form, along with all supporting documents and other information required by this rule which requests the issuance of a certificate of authority.

Commissioner—the commissioner of Financial Institutions.

Financial Institution—any bank, savings bank, homestead association, building and loan association or savings and loan association.

Letter of Notification—the documents filed by a federally-chartered or out-of-state state-chartered financial institution seeking to establish an in-state loan production office.

Loan Production Office—a physically manned location, other than the financial institution's main office or any branch office, which is subject to the provisions of this rule and whose employees conduct the solicitation and origination of applications for loans, provided that such loans are approved and made at the financial institution's main office or any branch office.

B. Application

1. Filing. All applications and notifications filed in accordance with this rule shall be accompanied by a nonrefundable fee as prescribed by the commissioner and shall be in such form and contain such information as the commissioner may from time to time prescribe. When application is made, an original and one copy must be submitted. The commissioner may approve a substantially complete application after consideration of the factors put forth in the following sections. A reasonable amount of time may be utilized in analysis of these factors and additional information may be requested when deemed necessary. The applicant must obtain approval from its board of directors prior to the submission of any materials pursuant to an application.

2. Louisiana State-Chartered Financial Institution for In-State Loan Production Office: Factors to be Considered. The following five factors shall be considered within the application as well as any additional factors deemed necessary and appropriate:

- financial history and condition;
- adequacy of capital;
- future earnings prospects;
- management;
- convenience and needs of the community.

3. Louisiana State-Chartered Financial Institution for an Out-of-State Loan Production Office. In addition to the requirements in Subsection B.2, a Louisiana state-chartered financial institution seeking to establish a loan production office out-of-state shall submit the following:

a. a "no objection letter" from the appropriate chartering authority of the state in which the loan production office is to be located;

b. a letter or other evidence of authority from the secretary of state of the state in which the loan production office is to be located, indicating that the applicant is authorized to do business in that state.

4. **Out-of-State Financial Institution for an In-state Loan Production Office.** An out-of-state financial institution seeking to establish a loan production office in-state must submit the following:

a. a letter of notification to the Commissioner giving the applicant institution's name, address, telephone number and the physical address of the proposed loan production office;

b. a letter or other evidence of authority from the Louisiana secretary of state's office (if applicable) indicating that the applicant is authorized to do business in this state.

5. **In-State Federally-Chartered Financial Institution for an In-State Loan Production Office.** An in-state federally-chartered financial institution shall submit a letter of notification to the commissioner giving the applicant institution's name, address, telephone number and the physical address of the proposed loan production office.

6. **Approval Process.** The commissioner may approve any request to establish a loan production office unless he finds that the proposed operation violates the provisions of this rule or any other pertinent provision of law. The commissioner may, in his sole discretion, assign written reasons for his decision which shall be released only to the applicant.

C. Activities

1. **Permissible Activities.** A loan production office of a Louisiana state-chartered financial institution is limited to the following activities:

a. soliciting loans on behalf of the financial institution or one of its wholly-owned subsidiaries by any means which discloses the nature and limitations of the loan production office;

b. providing information on loan rates and terms;

c. interviewing and counseling loan applicants regarding loans and any provisions for disclosure required by various regulation;

d. aiding customers in the completion of loan applications including the obtaining of credit investigations, the ordering of title insurance, mortgage certificates, hazard insurance or any other information deemed necessary to insure that the loan application is complete;

e. accepting loan payments;

f. signing or accepting notes, security agreements or other instruments obligating the loan customer to the financial institution; and

g. delivering loan proceeds to the customer so long as the check is written at the financial institution's main office or any branch office and not at the loan production office.

2. **Prohibited Activities.** A loan production office of a Louisiana state-chartered financial institution is prohibited

from conducting or engaging in the following:

a. providing forms which enable the customer to open deposit accounts directly or by mail;

b. counseling customers regarding savings accounts, checking accounts or any other services except loan origination services;

c. advertising, stating or implying that the loan production office provides services other than loan origination services;

d. providing information to a customer concerning the status of the customer's nonloan accounts at the financial institution;

e. charging, or providing for the charging of, interest on loans running from a date prior to the time the proceeds of the loan are actually disbursed to the customer by the financial institution's main office or any branch office;

f. approving loans or making lending decisions. Approval of loans at the main office or any branch office shall be in accordance with safe and sound lending practices, including a review of the credit quality of the loan and a determination that it meets the applicant's credit standards. In making an independent credit decision, the employee at the main office or any branch office may consider recommendations made by the loan production office as a factor when assessing the credit quality of the loan; and

g. operating an electronic financial terminal (EFT) facility within the loan production office.

D. Closure or Change of Location of Loan Production Office

1. The prior written approval of the commissioner is required at least 30 days prior to the closure or change of location of a loan production office of a Louisiana state-chartered financial institution. The notification of a relocation shall contain the current physical address of the loan production office, the proposed new address and the anticipated date of relocation. Louisiana state-chartered financial institutions shall also furnish the estimated cost of relocation, a statement indicating whether any insiders are involved in the proposed new location and a copy of the proposed lease for the new facilities. The notification of a closure shall include the current location of the loan production office, the reason for the closure and the anticipated date of the closure. This provision may be waived by the commissioner.

2. If the loan production office of a Louisiana state-chartered financial institution participates in the activity of accepting loan payments, all customers of the financial institution must be given reasonable prior notice of the closure of the loan production office. This notification should include an alternative address at which loan payments can be made.

E. Other

1. **Periodic Inspection.** Upon issuance of a certificate of authority, a loan production office operated by a Louisiana state-chartered financial institution may be subject to periodic inspection by the Office of Financial Institutions to ensure compliance with its rules and regulations concerning loan production office activities. In order to ensure compliance

with the rules and regulations concerning loan production office activities, the commissioner may order an inspection of an out-of-state loan production office of a Louisiana state-chartered financial institution. All expenses incurred by this Office as a result of the inspection shall be paid in full by the financial institution. Should the operations of a loan production office be found to be in noncompliance under this rule, the commissioner may revoke the loan production office's certificate of authority or take any other measure deemed necessary under his powers pursuant to R.S. 6:121.1 or any other pertinent provisions of law.

2. Emergency Issuance of Certificate of Authority. In the case of the acquisition of a failed or failing financial institution, the commissioner may waive any provision of this rule which is not required by statute for the purpose of issuing a certificate of authority to operate a loan production office by the acquiring institution.

3. Name. Loan production offices of financial institutions shall include the words "loan production office" in their title, official documents, letterhead, advertisements, signs or in any other medium prescribed by the commissioner. The words "loan production office" must be reproduced in at least as large a font size as the name of the financial institution.

4. Sharing of Loan Production Quarters. Loan production quarters may be shared by one or more financial institutions provided that each financial institution complies with the provisions of this rule. In addition, a written agreement between all parties, approved by their respective boards of directors, must be submitted to the commissioner for approval prior to commencement of operations. The agreement should outline the manner in which:

a. the operations of each financial institution will be separately identified and maintained within the loan production quarters;

b. the assets and records will be segregated;

c. expenses will be shared;

d. confidentiality of the financial institution's records will be maintained; and

e. any additional provisions deemed applicable.

5. Any request for an exception and/or waiver of any provision of this rule requires the written approval of the commissioner.

6. The commissioner shall impose a fee for an application or notification made under this rule in accordance with this Office's Fees and Assessments rule.

7. Effective Date. This rule shall become effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with Act 112 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 21:

Any interested person may submit written comments regarding the contents of this proposed rule to John P. Ducrest, Deputy Chief Examiner, Office of Financial

Institutions, Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 5 p.m., September 15, 1995.

Larry L. Murray
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Loan Production Offices**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost for this regulation will be the initial rule notification expense of \$490. The agency anticipates that no new hardware, employee costs, or professional services will be required to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on the revenue collections of local governmental units. The effect on state government revenues will be zero.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed revisions to the existing loan production office rule will not result in any costs or economic benefits to those persons or nongovernmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This office expects no significant change in competition or employment in the public or private sector. This rule clarifies that nationally chartered and out-of-state financial institutions are not subject to application requirements of this office.

Larry L. Murray
Commissioner
9508#067

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Office of Financial Institutions**

**Loans Secured by Bank or Bank Holding Company Stock
(LAC 10:I.527)**

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:416(A), the commissioner hereby gives notice of intent to promulgate the following rule to implement the provisions of Act 371 of 1991, to provide for the circumstances under which Louisiana state-chartered banks may make loans secured by their own bank stock or the stock of their parent holding company.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC
Part III. Banks

Chapter 5. Powers of Banks

§527. Loans Secured by Bank or Bank Holding Company Stock

A. Definitions

Bank—Louisiana state-chartered banks and state-chartered savings banks.

Commissioner—the commissioner of Financial Institutions.

Executive Officer—an employee who participates or has authority to participate in major policy-making functions of the bank but does not include a director who is not also employed as an officer of the bank.

Holding Company—any company that directly or indirectly controls a bank.

B. General Provisions

1. If holding company stock is used as collateral, provisions of Section 23A of the Federal Reserve Act may apply. The bank should review this section of the law and ensure compliance with its provisions.

2. The total dollar volume of all loans secured by own bank or holding company stock (hereinafter collectively referred to as "stock"), when aggregated with the total dollar amount of stock acquired for debts previously contracted, shall not exceed 10 percent of the bank's Tier 1 leverage capital. For the purposes of this calculation, any stock held as a result of debts previously contracted shall be valued at fair market value. For a loan which is partially secured by such stock, the amount of the loan to be included in this calculation shall be the loan amount less the collateral value of the non-stock collateral.

3. The bank shall maintain a list of all loans which are secured by its stock. The list shall, at a minimum, contain the borrower's name, the account number of the loan, the original amount of the loan and the certificate number(s) of the shares pledged as collateral.

4. Any loan made to a director or executive officer under the provisions of this rule must be fully disclosed to the bank's board of directors and approved by a majority of the directors in advance, with the interested party not present or participating in the discussion or approval process. Loans made to directors and executive officers under provisions of this rule must be made on substantially the same terms, including interest rates and collateral margins, as those prevailing at the time for comparable transactions by the bank with other persons who are not employed by or associated with the bank. Loans made to directors and executive officers for the purpose of disposition of stock acquired for debts previously contracted must have an adequate, well supported assessment of the stock value documented within the file.

5. Loans secured by a bank's stock made prior to the effective date of LSA-R.S. 6:416 A., as amended by Act Number 371 of 1991, effective July 6, 1991, shall not be subject to the requirements of this rule provided:

- a. there have been no changes in terms of the loan;

- b. no additional funds have been advanced;
- c. subsequent renewals were made with full board approval and are fully documented in the board's meeting minutes; and
- d. the loan is amortized over a reasonable period.

C. Regulation. A bank may have loans secured by its own stock under any of the following circumstances:

1. The stock is taken as additional collateral on an existing credit in order to minimize potential loss exposure to the bank, provided all of the following conditions are met:

- a. the original terms of the loan and its initial collateral margin were consistent with the bank's lending policy;
- b. the bank can demonstrate that a loss is probable because the borrower no longer has the ability to perform or collateral protection is inadequate or may soon become inadequate;
- c. the taking of the stock as collateral is not used as a means of circumventing other provisions of this rule.

2. The loan is made to facilitate the disposition of stock acquired through debts previously contracted, provided there is no significant deviation from the bank's lending policy with regard to amortization and borrower credit worthiness.

3. The stock of the bank or its holding company is publicly traded by a nationally recognized stock exchange.

D. Other

1. Any exception and/or waiver of any provision of this rule requires the written approval of the commissioner.

2. This rule shall be effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with Act 371 of 1991.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 21:

Any interested person may submit written comments regarding the contents of this proposed rule to John P. Ducrest, Deputy Chief Examiner, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 5:00 p.m., September 15, 1995.

Larry L. Murray
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Loans Secured by Bank Holding Company Stock

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation cost for this regulation will be initial and final publication in the *Louisiana Register*. This amount is anticipated to be \$260. The agency anticipates no new hardware, employee costs, or professional services will be required to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections for the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs to directly affected persons or nongovernmental groups as a result of implementation of this rule. Potential economic benefits to state chartered banks would be revenues generated from loans made that meet the requirements of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant change in competition or employment in the public or private sector is anticipated.

Larry L. Murray
Commissioner
9508#068

David W. Hood
Senior Fiscal Analyst

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs. A slight economic benefit may be realized in that the purchase of certified monies will no longer be required when remitting mandatory fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Julius C. Willie
Executive Director
9508#052

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Real Estate Appraisal Subcommittee**

Fees (LAC 46:LXVII.10305)

Notice is hereby given that the Louisiana Real Estate Appraisal Subcommittee intends to amend existing rules and regulations of the agency: LAC 46:LXVII, Subpart 2, Chapter 103, Fees.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LXVII. Real Estate
Subpart 2. Appraisers**

§10305. Fees

Payment of Fees. The application will be accompanied by the appropriate fees as specified in R.S. 51:3407.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Subcommittee, LR 15:814 (October 1989), amended LR 21:

Interested parties may submit written comments until 4:30 p.m., September 20, 1995, to Stephanie C. Fagan, Communications Specialist, Louisiana Real Estate Appraisal Subcommittee, Box 14785, Baton Rouge, LA 70898-4785 or 9071 Interline Avenue, Baton Rouge, LA 70809.

J.C. Willie
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs (savings).

NOTICE OF INTENT

**Department of Economic Development
Real Estate Commission**

Payment of Fees (LAC 46:LXVII.705)

Notice is hereby given that the Louisiana Real Estate Commission intends to repeal the following from the existing rules and regulations of the agency: LAC 46:LXVII, Subpart 1, Chapter 7, Fees.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Chapter 7. Fees

§705. Payment of Fees

Repeal

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and 37:1443.

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

Interested parties may submit written comments until 4:30 p.m., September 20, 1995, to Stephanie C. Fagan, Communications Specialist, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4785, or 9071 Interline Avenue, Baton Rouge, LA 70809.

J. C. Willie
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Payment of Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs (savings).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs. A slight economic benefit may be realized in that the purchase of certified monies will no longer be required when remitting mandatory fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Julius C. Willie
Executive Director
9508#051

David W. Hood
Senior Fiscal Analyst

in the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA.

Interested persons may submit their comments until 4:30 p.m., September 8, 1995 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1934—Preschool Starting Point (LAC 28:I.906)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, Bulletin 1934, Starting Points Preschool Program, revised April, 1995. Bulletin 1934 is referenced in the Louisiana Administrative Code, Title 28:I.906 as noted below:

**Title 28
EDUCATION**

**Part 1. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§906. Early Childhood Programs**

* * *

B. Bulletin 1934, Starting Points Preschool Regulations is adopted, revised April, 1995.

Local Starting Points Preschool Programs will adhere to the developmental philosophy as outlined by the National Association for the Education of Young Children. Developmentally appropriate practices have been proven to be effective in early childhood education. Inherent in this philosophy is the provision of a child-centered program directed toward the development of cognitive, social, emotional, communication and motor skills in a manner and at a pace consistent with the needs and capabilities of the individual child.

* * *

AUTHORITY NOTE: Promulgated in accordance with 12291 Federal Regulations 45 CFR, Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21:

Bulletin 1934 may be seen in its entirety in the Office of the State Register on the Fifth Floor of the Capitol Annex, 1051 North Third Street, Baton Rouge, LA 70802, and in the State Department of Education, Bureau of Elementary Education, or

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Starting Point Preschool Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The adoption of this bulletin is needed for continued implementation of the Starting Points Preschool Program. \$3.1 million is allocated to various public and approved nonpublic schools around the state. Administrative costs are estimated to be \$282,762. The funds are IAT funds from the Department of Social Services and will not cause actual expenditures of the Department of Education to increase. BESE's estimated printing costs is \$300.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection with the adoption of this bulletin. The Department of Education will continue to receive IAT funds from the Department of Social Services through the U.S. Child Care and Development Block Grant. These funds flow to local education agencies.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Parents and children will benefit from the Starting Points Preschool Program. The availability of this program enables parents to return to the workforce or receive training/education which will enable them to return to work while the children are provided educational experiences directed toward the development of cognitive, social, emotional and physical skills.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These funds will be used to employ approximately 75 Louisiana certified teachers and aides.

There can now be a minimum of 10 students per class. There will be one certified teacher and no aide for a class of 10-12 students and a part-time aide for a class of 13-15.

Marlyn Langley
Deputy Superintendent
Management and Finance
9508#063

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Control of Emission of Organic Compounds (LAC 33:III.2117)(AQ131)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.2117, (AQ131).

This action adds acetone to the list of compounds excluded from the definition of VOC on the basis that these compounds have been determined to have negligible photochemical reactivity.

This action revises the definition of volatile organic compounds (VOC) for purposes of preparing state implementation plans (SIPs) to attain the national ambient air quality standards (NAAQS) for ozone under Title I of the Clean Air Act (Act).

This action is required by federal regulation.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

The following classes of perfluorocarbons are also considered exempt from the control requirements of LAC 33:III.2101 to 2145: cyclic, branched, or linear, completely fluorinated alkanes; cyclic, branched, or linear, completely fluorinated ethers with no unsaturations; cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended Office of Air Quality and Radiation Protection, LR 20:289 (March 1994), LR 21:

A public hearing will be held on September 25, 1995, at 1:30 p.m., in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ131. Such comments should be submitted no later than October 2, 1995, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810 or to FAX number (504) 765-0486.

James B. Thompson, III
Assistant Secretary

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 21. Control of Emission of Organic Compounds Subchapter A. General

§2117. Exemptions

The following compounds are considered exempt from the control requirements of LAC 33:III.2101 to 2145: methane, ethane, 1, 1, 1 trichloroethane (methyl chloroform), methylene chloride (dichloromethane), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trichlorotrifluoroethane (CFC-113), trifluoromethane (FC-23), dichlorotetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), dichlorotrifluoroethane (HCFC-123), tetrafluoroethane (HFC-134a), dichlorofluoroethane (HCFC-141b), chlorodifluoroethane (HCFC-142b), 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125), 1,1,1,2-pentafluoroethane (HFC-134), 1,1,1-trifluoroethane (HFC-143a), 1,1-difluoroethane (HFC-152a), and acetone.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Control of Emission of Organic Compounds

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs or savings accruing to state or local government units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is not 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)
There are no costs and/or economic benefits accruing to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is not any effect on competition and employment.

Gus Von Bodungen
Assistant Secretary
9508#081

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Fugitive Emission Control
(LAC 33:III.2121)(AQ130)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.2121.D.1., (Log AQ130).

This submittal is made in order to change the existing phrase in LAC 33:III.2121.D.1 to read "...subject to LAC 33:III.2121.C.1.b and 2.b".

This action is required to correct an oversight in the original rule promulgation.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2121. Fugitive Emission Control

* * *

[See Prior Text in A-D]

1. Alternate Standards for Valves and Pumps subject to LAC 33:III.2121.C.1.b and 2.b—Skip Period Leak Detection and Repair:

* * *

[See Prior Text in D.1.a-G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:654 (July 1991), LR 21:

A public hearing will be held on September 25, 1995, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810.

Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by the Log AQ130. Such comments should be submitted no later than October 2, 1995, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884-

2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504) 765-0486.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Correct Oversight in LAC 33:III.2121.D.1

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs or savings accruing to state or local government units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is not 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)
There are no costs and/or economic benefits accruing to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is not any effect on competition and employment.

Gus Von Bodungen
Assistant Secretary
9508#082

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Modification of NESHAP Sources
(LAC 33:III.5115)(AQ129)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.Chapter 51, (AQ129).

It is proposed that barium sulfate be delisted from the list of toxic air pollutants in LAC 33:III.Chapter 51. The existing regulation (LAC 33:III.Chapter 51) makes reference to barium and compounds as toxic air pollutants that must be reported and controlled. EPA delisted barium sulfate from the category "barium compounds" on the toxic chemicals list under Section 313 of the Emergency Planning and Community Right-to-know Act of 1986 due to insufficient evidence that barium sulfate causes adverse acute or chronic health effects. DEQ received a request to delist barium sulfate and concurs with EPA.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 51. Comprehensive Toxic Air Pollutant
Emission Control Program
Subchapter A. Applicability, Definitions, and General
Provisions
§5115. Modification of NESHAP Sources

* * *

[See Prior Text in A-Table 51.1]

EXPLANATORY NOTES:

[1]Includes any unique chemical substance that contains the listed metal as part of that chemical's infrastructure, excluding barium sulfate. Barium sulfate has been delisted as a toxic air pollutant and should not be included as part of the metals and compounds emissions. Concentrations are based on $\mu\text{g}(\times)/\text{m}^3$, where \times is the elemental form of the metal.

* * *

[See Prior Text in Explanatory Note [2]-Table 51.2 Explanatory Note -]

[1]Includes any unique chemical substance that contains the listed metal as part of that chemical's infrastructure, excluding barium sulfate. Barium sulfate has been delisted as a toxic air pollutant and should not be included as part of the metals and compound emissions. Concentrations based on $\mu\text{g}(\text{x})/\text{m}^3$, where x is the elemental form of the metal.

* * *

[See Prior Text in Explanatory Note [2]-Table 51.3 Explanatory Note 4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), repromulgated LR 19:45 (January 1993), LR 19:891 (July 1993), amended LR 21:

A public hearing will be held on September 25, 1995, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ129. Such comments should be submitted no later than October 2, 1995, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504)765-0486.

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Modification of NESHAP Sources

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no significant implementation costs (savings) to state or local governmental units. De minimis implementation savings to the state may result due to having one fewer source in the database of regulated facilities.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Fees resulting from toxic air pollutants emissions into the atmosphere will be reduced by approximately \$1,000 per year.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
One facility will benefit by elimination \$1,000 per year of air toxics fees and approximately \$500 per year of preparation time.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Gus Von Bodungen
Assistant Secretary
9508#083

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Nonattainment New Source Review
(LAC 33:III.504)(AQ127)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.504, (AQ127).

It is proposed that reference to NO_x be removed, as a pollutant to be controlled under nonattainment in LAC 33:III.504, so that the state may qualify for a control exemption under Section 182(f)(1) of the Clean Air Act.

The existing regulation (LAC 33:III.504) makes reference to NO_x as a pollutant that must be controlled under nonattainment. In order to qualify for a control exemption under Section 182(f)(1), this reference must be deleted from LAC 33:III.504.

These proposed regulations are to become effective upon publication of the final rule in the *Louisiana Register*.

A public hearing will be held on September 25, 1995, at 1:30 p.m. in the Maynard Ketcham Building, (Room 326), 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals

with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by Log AQ127. Such comments should be submitted no later than October 2, 1995, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or FAX (504)765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 31st 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 70605; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

[See Prior Text in A]

1. For an area which is designated incomplete data, transitional nonattainment, marginal, moderate, serious, or severe nonattainment for ozone, volatile organic compounds are the regulated pollutants under this Section.

[See Prior Text in A.2-D.4]

5. The proposed major stationary source or major modification will meet all applicable emission requirements in the Louisiana State Implementation Plan (SIP), any applicable new source performance standard in 40 CFR part 60, and any national emission standard for hazardous air pollutants in 40 CFR part 61 or part 63.

[See Prior Text in D.6-F.5]

6. The emission limit for determining emission offset credit involving an existing fuel combustion source shall be the most stringent emission standard which is allowable under the applicable regulation for this major stationary source for the type of fuel being burned at the time the permit application is filed. If the existing source commits to switch to a cleaner fuel, emission offset credit based on the difference between the allowable VOC emissions of the fuels involved shall be acceptable only if an alternative control measure, which would achieve the same degree of emission reductions should the source switch back to a fuel which produces more pollution, is specified in a permit issued by the department.

[See Prior Text in F.7-10]

G. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows:

[See Prior Text]

Allowable Emissions—the emissions rate of a major stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- a. the applicable standard set forth in 40 CFR part 60, 61, or 63;
- b. any applicable State Implementation Plan emissions limitation including those with a future compliance date; or
- c. the emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

[See Prior Text]

Federally Enforceable—all limitations and conditions which are federally enforceable by the administrator, including those requirements developed pursuant to 40 CFR parts 60, 61, and 63, requirements within any applicable State Implementation Plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I including 40 CFR 51.165 and 40 CFR 51.166.

[See Prior Text]

Major Modification—

[See Prior Text in a]

b. any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone.

[See Prior Text in c-c.vii]

Major Stationary Source—

[See Prior Text in a-b]

c. A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

d. A stationary source shall not be a major stationary source due to fugitive emissions, to the extent that they are quantifiable, unless the source belongs to:

- i. any category in Table A in LAC 33:III.509; or
- ii. any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Act.

e. A stationary source shall not be a major stationary source due to secondary emissions.

[See Prior Text]

Table 1 Major Stationary Source/Major Modification Emission Thresholds				
POLLUTANT	MAJOR STATIONARY SOURCE Threshold Values (tons/year)	MAJOR MODIFICATION Significant Net Increase (tons/year)	OFFSET RATIO Minimum	
OZONE VOC		Trigger Values		
	Marginal ¹	100	40 (40) ²	1.10 to 1
	Moderate	100	40 (40) ²	1.15 to 1
	Serious	50	25 ³ (5) ⁴	1.20 to 1
	Severe	25	25 ³ (5) ⁴	1.30 to 1
CO	Moderate	100	100	> 1.00 to 1
	Serious	50	50	> 1.00 to 1
SO ₂	100	40	> 1.00 to 1	
PM ₁₀	Moderate	100	15	> 1.00 to 1
	Serious	70	15	> 1.00 to 1
Lead	100	0.6	> 1.00 to 1	

¹ For those parishes which are designated incomplete data or transitional nonattainment for ozone, the new source review rules for a marginal classification apply.

² Consideration of the net emissions increase will be triggered for any project which would increase emissions by 40 tons or more per year, without regard to any project decreases.

³ For serious and severe ozone nonattainment areas, the increase in emissions of volatile organic compounds resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase from the source equals or exceeds 25 tons.

⁴ Consideration of the net emissions increase will be triggered for any project which would increase volatile organic compound emissions by five tons or more per year, without regard to any project decreases, or for any project which would result in a 25 ton or more per year cumulative increase in emissions after November 15, 1992, without regard to project decreases.

VOC = volatile organic compounds

CO = carbon monoxide

SO₂ = sulfur dioxide

PM₁₀ = particulate matter of less than 10 microns in diameter

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR

James B. Thompson, III
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nonattainment New Source Review

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will not be any implementation cost (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will not be any 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)

There will not be any costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will not be any effect on competition and employment.

Gus Von Bodungen
Assistant Secretary
9508#084

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary

Emergency Response (LAC 33:I.6901-6925)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary Regulations, LAC 33:I.Chapter 69 (Log OS18).

The proposed rule would establish requirements for responding to off-site transportation related emergency incidents, timely removal of abandoned containers, and creation of emergency response storage facilities.

The regulation is needed to clarify the roles and responsibilities of persons involved in emergency response situations. Better clarification will result in more efficient response to emergency incidents.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 4. Emergency Response

Chapter 69. Emergency Response

§6901. Authority

Regulations for responding to emergency incidents are hereby established by the Department of Environmental Quality as authorized by R.S. 30:2011(D)(1), (14), and (15).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

§6903. Applicability

The requirements of these regulations apply to:

1. off-site transportation-related emergency incidents;
2. abandoned containers, barrels, and other receptacles that may result in a release, or may result in a potential release, of a pollutant that could reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the environment, or cause severe damage to property;
3. emergency response storage facilities utilized for storage of uncharacterized waste that result from cleanup of an emergency incident. This includes, but is not limited to, state owned and/or leased, municipal, and private facilities; and
4. incidents declared as an emergency by the secretary of the department or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

§6905. Definitions

The following terms as used in this Chapter shall have the meaning listed below:

Act—the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

Administrative Authority—the secretary of the Department of Environmental Quality, or his or her delegate.

Cleanup—all actions necessary to contain, collect, control, identify, analyze, treat, disperse, remove, or dispose.

Cleanup Costs—all costs incurred by the state or any of its political subdivisions, or their agents, or by any other person participating with the approval of the administrative authority in the cleanup of pollutants resulting from an emergency incident.

Department—the Department of Environmental Quality.

Emergency Abatement—action taken to prevent release of pollutants that could reasonably be expected to cause an emergency incident.

Emergency Incident—a release, or the potential release, of a pollutant that could reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the environment, or cause damage to property.

Emergency Response Storage Facility—a facility used for storage of uncharacterized waste generated from the cleanup of emergency incidents.

Pollutant—any substance introduced into the environment of the state by any means that would tend to degrade the chemical, physical, biological, or radiological integrity of such environment. A pollutant includes but is not limited to:

- a. any substance listed under LAC 33:I.3931;
- b. any element, compound, mixture, solution, or substance designated according to sections 101(14) and 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended;
- c. any hazardous material designated by the secretary of the United States Department of Transportation under the Hazardous Materials Transportation Act;
- d. any radioactive material, pollutant, emission, or release; and
- e. infectious waste as defined in LAC 33:VII.115.

Release—any threatened or real spilling, leaking, pumping, pouring, emitting, escaping, leaching, dumping, or disposing of pollutants (including the abandonment or discarding of barrels, containers, and other closed receptacles) into or on the land, air, water, or groundwater.

Responsible Person—any person owning, handling, storing, transporting, or managing a pollutant that initiates an emergency incident, including bailees, carriers, and any other person in control of a pollutant and who may be operating under a lease, contract, or other agreement with the legal owner thereof.

Secretary—the secretary of the Department of Environmental Quality.

Transportation—the off-site conveyance by any means of commercial or private transport of products, by-products, goods, or waste from one location to another.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

§6907. Notification Procedures for Emergencies

Upon discovery of an emergency incident involving a pollutant, the responsible person having control over the material shall notify the administrative authority in accordance with LAC 33:I.Chapter 39.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

§6909. Liability for Emergency Abatement/Cleanup

Any responsible person having control over any pollutant released or that poses a threat of release shall be strictly liable for the emergency abatement and/or cleanup of the pollutant without regard to fault for the release or threatened release.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

§6911. Emergency Abatement/Cleanup Responsibilities

A. Any person liable for a release or threatened release shall immediately clean up the release, or take measures to prevent a release, in a timely and diligent manner and in accordance with a schedule approved by the administrative

authority so that the pollutant no longer presents a threat to human life or health or the environment. However, any person liable for a release or a threatened release shall immediately initiate emergency abatement/cleanup whether or not the administrative authority has ordered such action. The administrative authority may require the responsible person to undertake such investigations, monitoring, surveys, testing, and other information gathering as the administrative authority considers necessary or appropriate to:

1. identify the existence and extent of the release;
2. identify the source and nature of the release;
3. evaluate the extent of danger to the public health, safety, and welfare or the environment; and
4. estimate the cleanup costs.

B. Emergency abatement/cleanup shall be to the extent that will prevent a hazard to human health and safety and the environment.

C. If any person liable under LAC 33:I.6909 does not immediately commence to adequately abate the emergency and/or complete the cleanup, the administrative authority may abate the emergency and/or cleanup or contract for the emergency abatement/cleanup of the release or the threatened release.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

§6913. Responsible Person Unwilling or Unknown

In the event of a release or suspected release in which the responsible person is unwilling to carry out the provisions of LAC 33:I.6911 or the responsible person is unknown, the administrative authority may initiate remedial action as necessary to protect public health and welfare and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

§6915. Responsibility for Expenses of Emergency Abatement and/or Cleanup

A. If a responsible person required to clean up or conduct emergency abatement measures under LAC 33:I.6911 fails, does not complete abatement and/or cleanup, or refuses to do so, that person shall be responsible for the reasonable emergency abatement and/or cleanup costs incurred by the administrative authority in carrying out LAC 33:I.6911.

B. The administrative authority shall keep a record of all expenses incurred in carrying out any emergency abatement and/or cleanup project or activity authorized by LAC 33:I.6911, including charges for contracted services and the state's manpower, equipment, and materials utilized.

C. Based on the record compiled by the administrative authority under Subsection B of this Section the administrative authority shall prepare and submit an invoice to the person liable under LAC 33:I.6909 for the emergency abatement and/or cleanup costs incurred by the state in carrying out the action authorized by this Section. If the amount of state-

incurred expenses is not paid by the person liable within 60 days from the due date indicated on the invoice, the administrative authority shall take enforcement action under R.S. 30:2025.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

§6917. Transportation and Storage of Uncharacterized Waste

The administrative authority may authorize the transportation and storage of uncharacterized waste generated as a result of an emergency incident, as necessary, to protect the health and safety of the public and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

§6919. Request to Operate Emergency Response Storage Facility

A. Authorization to operate shall be requested in writing. Request must include documentation to demonstrate compliance with LAC 33:I.6921 and LAC 33:I.6923.

B. Facilities utilized for storage of uncharacterized waste shall be authorized in writing by the administrative authority for a period not to exceed one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

§6921. Emergency Response Storage Facility Requirements

A. Storage Restrictions. Uncharacterized waste generated from the abatement and/or cleanup of an emergency incident may be stored on-site for 90 days or less unless the emergency response storage facility has been granted an extension to the 90-day period by the administrative authority. Such an extension may be granted by the department if the waste must remain on-site for longer than 90 days due to unforeseen, temporary, or uncontrollable circumstances. Upon written request, an extension of up to 30 days may be granted at the discretion of the administrative authority on a case-by-case basis.

B. Management of Containers and Storage Area

1. Containers used to store waste generated from the cleanup of an emergency incident shall be managed in the following manner:

a. a legible label shall be affixed to the outside of the container so that it is readable from the aisle in which the container is stored and shall contain all pertinent information regarding the waste including, but not limited to, date of incident, location of the release, transporter name and EPA identification number, and if known, generator name and identification number, waste code, U.N. number, and LAR number;

b. if a container holding waste is not in good condition (e.g., bulging, severe rusting, apparent structural defects) or if it begins to leak, the emergency response storage facility shall transfer the waste from this container to a container that

is in good condition or manage the waste in some other way that complies with the requirements of this Section;

c. containers used shall be made of or lined with materials that will not react with, or be incompatible with, the waste to be stored so that the ability of the container to contain the waste is not impaired;

d. a container holding waste shall always be closed during storage, except when it is necessary to add or remove waste;

e. a container holding waste shall not be opened, handled, or stored in a manner that may rupture the container or cause it to leak;

f. at least weekly, the emergency response storage facility owner or operator shall inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and at the condition of the containment system. Immediate remedial action as described in Subsection B.1.b of this Section shall be taken by the owner or operator upon discovery of any problems in the areas described herein;

g. all inspection records shall be maintained and available for inspection at the facility for a period of three years.

2. Container storage areas shall have a containment system that is designed and operated as follows:

a. a base that is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation;

b. the base shall be sloped or the containment system shall be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

c. the containment system shall have sufficient capacity to contain 10 percent of the volume of containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination;

d. run-on into the containment system shall be prevented unless the containment system has sufficient excess capacity in addition to that required in Subsection B.2.c of this Section to contain any run-on that might enter the system;

e. spilled or leaked wastes and accumulated precipitation shall be removed from the sump or collection area in as timely a manner as is necessary to prevent overflows of the containment system; and

f. collected material is subject to hazardous waste determination as specified by LAC 33:V.1103.

3. Storage areas that store containers holding only wastes that do not contain free liquids need not have a containment system defined by Subsection B.2 of this Section, provided:

a. the storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

b. the containers are elevated or are otherwise protected from contact with accumulated liquid.

4. Wastes shall not be placed in an unwashed container in order to prevent combination with a possible incompatible waste or material.

C. Preparedness and Prevention. All emergency response storage facilities shall comply with the requirements of LAC 33:V.1511.

D. Contingency Plan. Each emergency response storage facility shall prepare a contingency plan. The contingency plan shall include the information as specified in LAC 33:V.1513.A, B, C, D.2, and F. The contingency plan shall include a section describing emergency response procedures as specified in LAC 33:V.1513.F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

§6923. Reporting and Recordkeeping Requirements

A. Reporting Requirements for Responsible Person. Within 120 days from the date of the emergency incident, the responsible person shall submit to the department's Emergency Response Division a report that includes at a minimum the following information:

1. location, date, and department-issued incident number;
2. action taken to abate and/or cleanup wastes generated as a result of an emergency incident;
3. name and address of the company transporting the waste that resulted from the emergency incident;
4. name and location of the facility where the waste is/was stored;
5. treatment methods, if applicable;
6. name and location of the facility accepting the waste for disposal, recycling, or reuse; and
7. efforts taken to clean up and restore the site.

B. Recordkeeping Requirements for Emergency Response Storage Facility

1. The written authorization from the administrative authority to operate an emergency response storage facility shall be kept on file.

2. A separate file shall be maintained by incident that contains the following records/information:

- a. date storage began, location of release, and name of responsible person;
- b. date storage ended;
- c. name and location of the facility accepting the waste for disposal, recycling, or reuse;
- d. any requests for extension of 90-day storage; and
- e. any extension approval letters issued by the administrative authority.

3. Records shall be maintained and available for inspection for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

§6925. Enforcement

A. Failure to Comply. Failure of any person to comply with any of the provisions of these regulations or order issued hereunder constitutes a violation of the act.

B. Investigations: Purposes, Notice. Investigations may be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and

the persons or parties involved. The results of an investigation shall be given to any complainant who provided the information prompting the investigation, upon written request, and if advisable, to the person under investigation if the identity of such person is known.

C. Development of Facts, Reports

1. The administrative authority may conduct inquiries and develop facts in investigations by staff investigatory procedures or formal investigations and may conduct inspections and examinations of facilities and records. The administrative authority or a presiding officer may hold public hearings and/or issue subpoenas in accordance with R.S. 30:2025(I) and require attendance of witnesses and production of documents, or may take such other action as may be necessary and authorized by the act or rules promulgated by the administrative authority. At the conclusion of the investigation all facts and information concerning any alleged violation shall be compiled by the staff of the department. A report of the investigation shall be presented to the administrative authority for use in possible enforcement proceedings. Any complainant who provided the information prompting the investigation shall be notified of its results.

2. The administrative authority shall have access to and be allowed to copy any records that the department or the representative finds necessary for the enforcement of these regulations. For records maintained in either a central or private office that is open only during normal office hours and is closed at the time of the inspection, the records shall be made available as soon as the office is open, but in no case later than noon the next working day.

D. Enforcement Action. When the administrative authority determines that a violation of the act or these regulations has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15), R.S. 2025.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 21:

A public hearing will be held on September 25, 1995, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by Log OS18. Such comments should be submitted no later than October 2, 1995, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504) 765-0486.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emergency Response**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
No significant effect of this proposed rule on implementation costs to state or local governmental units is anticipated.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
A potential economic benefit may result from the state having procedures to quickly deal with off-site spills and abandoned containers prior to their causing adverse environmental impact or expensive cleanup costs.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
A positive benefit to competition and employment may result due to the creation of private emergency response storage facilities.

Filmore P. Bordelon, III
Deputy Secretary
9508#085

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

**Funeral Establishment Application
(LAC 46:XXXVII.1101 and 1103)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq, and R.S. 37:840, notice is hereby given that the Department of Health and Hospitals, Board of Embalmers and Funeral Directors intends to amend LAC 46:XXXVII, Chapter 11, Funeral Establishments.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XXXVII. Embalmers and Funeral Directors
Chapter 11. Funeral Establishments
§1101. Application**

Application for a funeral establishment license shall be made upon the form provided by the board, sworn to by applicant and accompanied by a fee of \$750. Said establishment shall meet the requirements as defined in R.S. 37:842. When an existing licensed establishment is sold, or in excess of 50 percent of the stock in a corporation holding an establishment license is sold, the purchaser must pay a fee of \$750 for a new license. The seller and the purchaser are to notify the board

with full information as to the sale. Failure by either party to provide the board with notice, as herein set out, will bring about the suspension and/or revocation of the license of either or both parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended October 1969, February 1973, amended and promulgated LR 4:227 (June 1978), amended LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors LR 21:

§1103. Fixed Place; Extension of Funeral Establishment

A. The license is effective for a fixed place, or establishment, and for a specific name. Whenever the location or name of the licensed establishment is changed, a new license shall be obtained and a renewal fee of \$400 paid. All changes of name and/or location must be reported to the board's secretary without delay.

B. The board will recognize a fixed business office to maintain current funeral records (as provided within rule 4 and §831, et seq., to include current contracts, purchase agreements, current embalming log, and current preneed records) at a location other than the fixed location of the funeral establishment which shall be considered as an extension of the funeral establishment, and the current funeral records maintained within this extension shall be subject to the inspection of the board. Application for said extension to the funeral establishment shall be made upon the form provided by the board and shall be accompanied by a fee of \$400. Any changes in the location of this extension must be reported to the board immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended 1970, amended and promulgated LR 4:227 (June 1978), amended LR 5:278 (September 1979), LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors LR 21:

Inquiries concerning the proposed amendments may be directed in writing to Dawn P. Scardino, Executive Director, Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011-8757.

Dawn P. Scardino
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Funeral Establishments**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There would be no implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Based upon current licenses in effect and anticipated new licenses to be issued, revenue collections of this state agency could increase by approximately \$43,700.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals/partnerships/corporations applying for a new license would pay \$750 per license in lieu of the current costs of \$500 (This fee has been the same since 1970). Renewal of licenses for funeral establishment would increase from \$300 to \$400 per year (This fee has been the same since 1983). Name change/location change fees have historically been the same as the renewal fee so they would also increase from \$300 to \$400. Late renewal fee has been the same as an original application, these would therefore increase from \$500 to \$750.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

We do not anticipate any effect on competition and employment.

Dawn P. Scardino
Executive Director
9508#086

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

License Renewal and Reinstatement (LAC 46:XXXVII.701)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq, and R.S. 37:840, notice is hereby given that the Department of Health and Hospitals, Board of Embalmers and Funeral Directors intends to amend LAC 46:XXXVII, Chapter 7, License.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXVII. Embalmers and Funeral Directors

Chapter 7. License

§701. Renewal and Reinstatement

A. All individual licenses issued by the board shall expire on the 31 day of December of each year and must be renewed on or before that date. All establishment licenses and preneed affidavits shall also expire on the 31 day of December and must be renewed on or before that date. Applications for renewal of licenses must be made to the secretary of the board upon forms furnished by said board and must be accompanied by a renewal fee of \$50 for individual licenses for embalmers and/or funeral directors and not more than \$400 for funeral establishments. There is no fee for the annual report of Prepaid Funeral Services or Merchandise.

* * *

D. When a licensed funeral establishment fails to renew its license on or before December 31 of each year, said license shall lapse. However, same may be reinstated provided that

the applicant shall submit to an inspection; and if the board is satisfied that the applying establishment meets all requirements, it shall issue a renewal license for the remaining portion of the current year upon payment of regular application fee of \$750.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, LR 11:688 (July 1985), LR 13:436 (August 1987), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21:

Inquiries concerning the proposed amendments may be directed in writing to Dawn P. Scardino, Executive Director, Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011-8757.

Dawn P. Scardino
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: License Renewal and Reinstatement**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
There would be no implementation costs to state or local governmental units.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
As of this date there are approximately 1,300 licensed individuals (embalmer and/or funeral directors). The additional renewal fees which are requested (and have been approved by the legislature) would generate approximately \$32,500 each year. The requested increase is from \$25 to \$50. The effect of natural attrition and its ratio to new licensees could cause this number to increase or decrease.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
This increase will cost each individual renewing the professional license an additional \$25 each year.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
There is no estimated effect on competition and employment.

Dawn P. Scardino
Executive Director
9508#088

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**General Provisions, License, Practice, Examination
(LAC 46:LI.Chapters 1-5)**

The State Board of Optometry Examiners hereby gives notice of its intent to adopt additional rules in LAC

46:LI.Chapters 1 through 5, as a requirement of recent legislation.

In addition, legislation has changed definitions and other matters affecting certain existing rules requiring amendment to some of the board's existing rules. Further, the State Board of Optometry Examiners wishes to repromulgate, in their entirety, all rules as they will read after adoption of the new rules and amendments to the existing rules set forth below.

The following summarizes the new rules and amendments to existing rules:

LAC 46:LI.107.B.3 is being amended to redefine "Optometry" to comply with the definition set forth in R.S. 37:1041(3) as amended by Act 202 of the 1993 Regular Session of the Louisiana Legislature and to add a provision addressing issuance of prescriptions by optometrists.

LAC 46:LI.107.B.4 is being amended to redefine "Diagnostic and Therapeutic Pharmaceutical Agent" to comply with the definition set forth in R.S. 37:1041(4) as amended by Act 202 of the 1993 Regular Session of the Louisiana Legislature.

LAC 46:LI.107.D, stating where the Louisiana State Board of Optometry Examiners office is to be located, is being deleted.

LAC 46:LI.111 is being added to comply with Act 657 of the 1993 Regular Session of the Louisiana Legislature which added Section 1744 to Chapter 20 of Title 37 of the Revised Statutes (R.S. 37:1744) to require disclosure of financial interests of referring health care providers, and Act 827 of the 1993 Regular Session of the Louisiana Legislature which added Section 1745 to Chapter 20 of Title 37 of the Revised Statutes (R.S. 37:1745) to prohibit payment for patient referrals. The legislation directed respective boards governing health care providers to adopt rules implementing the act, in accordance with the authority set forth in R.S. 37:1744 and 1745.

LAC 46:LI.301.B is being amended to clarify the education requirements applicable to optometrist authorized to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents.

LAC 46:LI.301.D is being added to provide automatic suspension of authority to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents if an optometrist fails to timely submit proof of continuing education or fails to timely pay the applicable fees.

LAC 46:LI.501.C., D., and E dealing with minimum standards for an optometric examination are being updated.

LAC 46:LI.503.G is being amended by adding a provision authorizing diagnosis of ocular pathology and by adding a provision for payment of certificate fees for issuance, renewal or reinstatement of a therapeutic pharmaceutical agent certificate.

LAC 46:LI.503.H is added to provide rules regarding issuance of prescriptions by optometrists.

Except as noted above, the rules will not be substantively changed. The board proposes that the rules, when amended and readopted, will read as follows:

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LI. Optometrists

Chapter 1. General Provisions

§101. Preamble

A. The Louisiana State Board of Optometry Examiners governs the practice of optometry in accordance with the Optometry Practice Act (the "act"), R.S. 37:1041 et seq.

1. The act is incorporated herein by references, as though copied in full.

2. The act is the source of the board's authority. Primary reference should be made to the act in determining the rules governing the operation of the board. The following rules supplement and further the purposes of the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Optometry Examiners, 1962, amended LR 13:241 (April 1987), repromulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21:

§103. Rulemaking Procedure

The board shall be governed by the provisions of the Optometry Practice Act, R.S. 37:1041 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., in adopting rules for the operation of the board and the practice of optometry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Optometry Examiners, 1975, promulgated LR 1:463 (October 1975), amended LR 13:241 (April 1987), repromulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21:

§105. Legislative History

A. The practice of optometry in Louisiana was initially governed by Act 193 of 1918, which was amended by Act 181 of 1920.

B. Act 172 of 1921 revised the law as it then existed.

C. In 1950, Louisiana adopted the Revised Statutes which codified existing legislation. The practice of optometry is currently governed by Chapter 12, Title 37 of the Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1061 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Optometry Examiners, LR 13:242 (April 1987), repromulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21:

§107. Organization of the Board

A. Introduction. See the provision of the act relative to the organization of the board, in particular, R.S. 37:1041-1048.

B. Definitions

1. As used in this Chapter, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

2. Masculine terms shall include the feminine and, when the context requires, shall include partnership and/or professional corporations.

3. Where the context requires, singular shall include the plural or plural shall include the singular.

Act—the Optometry Practice Act, R.S. 37:1041 et seq.

Board—the Louisiana State Board of Optometry Examiners.

Diagnostic and Therapeutic Pharmaceutical Agent—any chemical in solution, suspension, emulsion, or ointment base, other than a narcotic, when applied topically that has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, or oral antibiotics, and oral antihistamines only when used in treatment of disorders or diseases of the eye and its adnexa. Licensed pharmacists of this state shall fill prescriptions for such pharmaceutical agents of licensed optometrists certified by the board to use such pharmaceutical agents.

Licensed Optometrist—a person licensed and holding a certificate issued under the provisions of the act.

Optometry—that practice in which a person employs primary eye care procedures or applies any means other than surgery for the measurement of the power and testing the range of vision of the human eye, and determines its accommodative and, refractive state, general scope of function, and the adaptation of frames and lenses, including contact lenses in all their phases, to overcome errors of refraction and restore as near as possible normal human vision. *Optometry* also includes the examination and diagnosis, and treatment of abnormal conditions and pathology of the human eye and its adnexa, including the use and prescription of diagnostic and therapeutic pharmaceutical agents. *Optometrists* shall issue prescriptions, directions and orders regarding medications and treatments which may be carried out by other health care personnel including Optometrists, Physicians, Dentists, Osteopaths, Pharmacists, Nurses, and others.

C. Purpose. The purpose of the board is to regulate the practice of optometry in Louisiana and to carry out the purposes and enforce the provision of the law of Louisiana relating thereto. The laws of Louisiana relating to the practice of optometry are set for the, in part, in the Optometry Practice Act, R.S. 37:1041 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1061 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Optometry Examiners, LR 13:242 (April 1987), amended by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21:

§109. Employment Restrictions

A. An optometrist, duly licensed under the provisions of the Louisiana Optometry Law as set forth in R.S. 37:1041 et seq., is prohibited from accepting employment as an optometrist from a corporation, except for professional optometric or medical corporations.

B. An optometrist, duly licensed under the provisions of the Louisiana Optometry Law as set forth in R.S. 37:1041 et seq., is prohibited from accepting employment as an optometrist from a partnership composed of persons other than duly licensed optometrists.

C. Optometrists so employed (A) and (B) shall be considered in violation of provisions of R.S. 37:1061 and as such subject to refusal by the board to renew his or her optometry license on its annual renewal date of March 1 of each year (R.S. 37:1056) and/or subject to suspension or revocation of his certificate to practice upon due notice and hearing as provided in R.S. 37:1062.

NOTE: *Michel vs LA State Board of Optometry Examiners*, 156 So.2d 457.345 La. 1, No 46549 Supreme Court of La. June 28, 1963; Rehearing denied Oct. 9, 1963.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Optometry Examiners, September 1975, promulgated LR 1:463 (October 1975), amended LR 13:241 (April 1987), repromulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21:

§111. Referrals

A. No optometrist shall offer, make, solicit, or receive payment, directly or indirectly, overtly or covertly, in cash or in-kind, for referring or soliciting patients.

B. No optometrist shall make referrals outside the same group practice as that of the referring optometrist to any other health care provider, licensed health care facility, or provider of health care goods and services including but not limited to medical suppliers, and therapeutic services when the referring optometrist has a financial interest served by such referral, unless in advance of any such referral the referring optometrist, discloses to the patient, in writing, the existence of such financial interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21:

Chapter 3. License

§301. Continuing Education

Each licensed optometrist shall comply with the following continuing education requirements:

1. Standard optometry certificate holders and diagnostic pharmaceutical certificate holders shall complete between January 1 and December 31 of each calendar year at least 12 classroom hours of continuing education courses approved by the Louisiana State Board of Optometry Examiners.

2. Certificate holders authorized to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents shall complete between January 1 and December 31 of each calendar year at least 16 classroom hours of continuing education courses approved by the Louisiana State Board of Optometry Examiners, of which at least eight classroom hours shall consist of matters related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease. Such certificate holders will be entitled to apply the CPR continuing education to their required annual continuing

education, provided that such CPR continuing education shall not count toward the required eight classroom hours related to ocular and system pharmacology and current diagnosis and treatment of ocular disease, and provided further that no more than four hours of CPR continuing education may be applied to the continuing education requirement in any two calendar year periods. The eight hours of continuing education relating to ocular and systemic pharmacology and/or current diagnosis and treatment of ocular disease shall be obtained from the following sources only: clinical courses in ocular and systemic pharmacology and current diagnosis and treatment of disease sponsored by national, regional, or state Optometric associations recognized by the American Optometric Association; or schools and colleges of optometry accredited by the American Optometric Association.

3. Written evidence of satisfactory completion of the continuing education requirement for the prior calendar year shall be submitted on or before the first day of March of each year.

4. Failure to submit acceptable continuing education hours and pay the applicable fee on or before March 1 of each year shall operate as an automatic suspension of the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048 and R.S. 37:1061(17).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Optometry Examiners, 1970, amended by Department of Health and Hospitals, Board of Optometry Examiners, LR 19:1573 (December 1993), LR 21:

Chapter 5. Practicing Optometry

§501. Minimum Standards for an Optometric Examination

A. The optometrist shall keep the visual welfare of the patient uppermost at all times, promote the best care of the visual needs of mankind, strive continuously to develop educational, professional, clinical and technical proficiency and keep himself informed as to the new developments within his profession.

B. The optometrist shall conduct his practice in a decorous, dignified and professional manner and in keeping with the rules, regulations and ethics as promulgated by this board.

C. Minimum standards for an optometric examination are necessary in order to insure an adequate examination of a patient for whom an optometrist signs or causes to be signed, a prescription.

D. In the initial examination of the patient the optometrist shall make and record the following findings of the condition of the patient:

1. complete case history (ocular, physical, occupational, medical and other pertinent information);
2. chief ocular complaint;
3. aided and/or unaided visual acuity;
4. external examination (lids, cornea, sclera, etc.);
5. internal ophthalmoscopic examination (media, fundus, etc.);
6. neurological integrity (e.g. pupillary reflexes, direct, consensual);
7. far point subjective refraction;

8. near point subjective refraction;
9. tests of accommodation and binocular coordination at far and near, test preferably made with Phoropter;
10. tonometry.

E. The minimum standards for examination and fitting of contact lenses are necessary in order to insure an adequate examination of a patient for whom an optometrist signs or causes to be signed a prescription for a contact lens and are as follows:

1. all items contained in the minimum standards for an optometric examination;
2. ophthalmometry or keratometry;
3. slit lamp evaluation;
4. fluorescein examination (for rigid lenses);
5. diagnostic evaluation for soft lenses;
- 6.a. re-examination and reevaluation within the following periods of time:
 - i. rigid lenses - six months;
 - ii. soft lenses - six months;
- b. If the patient does not return for this re-examination and re-evaluation, this requirement is waived.

F. In the event that the examining optometrist is not able, at the time of the examination, for any reason, to make the record of each of the points set forth herein, he shall record in writing his professional judgment for not making and recording same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Optometry Examiners, LR 3:496 (December 1977), amended LR 13:241 (April 1987), amended by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21:

§503. License to Practice Optometry

A. Introduction. See the provisions of the act relative to the license to practice optometry, in particular, R.S. 37:1049 et seq.

B. Graduate of Approved School. Optometric educational programs that are duly accredited by the Council of Optometric Education of the American Optometric Association and recommended to the board by the International Association of Boards of Examiners in Optometry as worthy of approval will meet the statutory requirements.

C. Application for Licensure by Reciprocity. The waiver provided for by R.S. 37:1054 (reciprocity) is within the discretion of the board. The board shall refer to the laws provided for in the regulation of the practice of optometry, the public interest, the interest of licensed optometrists and the interest of the applicant in the exercise of discretion.

D. Duplicate License. The secretary of the board, subject to prior board approval, may issue a duplicate certificate upon application of the licensed optometrist if all of the provisions of the act have been satisfied, and the applicant has paid a fee of \$25 to the board.

E. Beginning Practice. Upon beginning practice, a licensee shall notify the secretary of the board as to the address of his office and the telephone number. If any time any office has relocated, the licensee involved shall notify the secretary of his

new office address and telephone number. If, for any reason, he ceases to practice, he shall so notify the secretary.

F. Continuing Education. In order to qualify for the annual license renewal required by R.S. 37:1057, the following information shall be presented to the secretary of the board.

1. Written certification that the doctor requesting license renewal has completed 12 hours of continuing education between January 1 and December 31 of each year immediately preceding the March 1 renewal date set forth in R.S. 37:1057; by attendance and completion of courses approved by the Louisiana State Board of Optometry Examiners.

2. Education hours will not qualify unless they are completed within the above stated calendar period.

3. While the education hours shall be accomplished within the calendar dates set forth in Paragraph 1 hereof, the written evidence of attendance shall be submitted on or before the first day of March of each calendar year provided that same is in the office of the secretary of the board on or before the first day of March of each calendar year in which license renewal is sought.

4. The requirement shall only be waived in cases of certified illness, certification by the commanding officer of those in the military that due to his military assignment it was impossible for him to comply or upon evidence satisfactory to the board that the applicant for renewal was unable to meet the requirement because of undue hardship.

5. Pay to the board the annual renewal fee provided in R.S. 37:1058 on or before the first day of March of each year.

G. Certification to Use Diagnostic and Therapeutic Drugs and to Treat Ocular Pathology. An optometrist may be certified to use ocular diagnostic and therapeutic pharmaceutical agents and to diagnose and treat ocular pathology. In order to obtain such certification, an optometrist shall comply with the following requirements:

1. Certification to Use Diagnostic Drugs

a. In order to be approved as an optometrist authorized to use diagnostic drugs, as set forth in Act 123 of the 1975 Session of the Louisiana Legislature, an optometrist shall present to the secretary of the Louisiana State Board of Optometry Examiners for approval by the board, the following:

i. evidence that the applicant is a licensed Louisiana optometrist, holding a current license in compliance with all license renewal requirements of the Louisiana Optometry Practice Act for the year in which he applies for certification;

ii. transcript credits, in writing, evidencing that the applicant has completed a minimum of five university semester hours in pharmacology from an accredited university or college of optometry, subsequent to December 31, 1971. The pharmacology hours shall consist of a minimum of two hours in general pharmacology and a minimum of three hours in ocular pharmacology.

b. Upon submission of the above, the secretary shall present same to the board for approval at the next regular meeting. Upon approval by the board, the secretary shall cause to be issued to the optometrist a certificate indicating compliance with the legislative requirement and intent.

c. The certificate issued by the secretary shall be over the secretary's signature and bear a number identical to the number on the license originally issued by the board to the optometrist.

2. Certification to Treat Pathology and to Use and Prescribe Therapeutic Pharmaceutical Agents

a. Definitions. For purposes of this Paragraph 2 the following definitions shall apply:

Application Date—the date the board receives in its office by certified mail return receipt requested an application for certification under this Paragraph 2.

Approved Educational Institution—an educational institution providing education in optometry that is approved by the board and is accredited by a regional or professional accrediting organization which is recognized or approved by the Council of Post-secondary Accreditation of the United States Department of Education.

Board—the Louisiana State Board of Optometry Examiners

Treatment and Management of Ocular Disease (TMOD)—test administered by the International Association of Board of Optometry.

b. Requirements for Certification. In order to obtain certification under this Paragraph 2, an optometrist shall present to the secretary of the Louisiana State Board of Optometry Examiners for approval by the board:

i. a certified transcript from an approved educational institution evidencing satisfaction of the educational prerequisites for certification to use diagnostic pharmaceutical agents as set forth in LAC 46:LI.503.G.1.a.ii or evidence of current certification by the board for the use of diagnostic pharmaceutical agents under LAC 46:LI.503.G.1; and

ii. certification from the American Heart Association or the American Red Cross evidencing current qualification to perform cardiopulmonary resuscitation (CPR). The certification must show completion of the basic CPR course or re-certification within six months of the application date in order to be considered "current"; and

iii. a signed statement from the applicant stating that he or she possesses operable and unexpired child and adult automatic epinephrine injector kits in every office location in which the applicant practices; and

iv. a certified transcript from an approved educational institution evidencing satisfactory completion after January 1, 1985 of 46 clock hours of classroom education and 34 clock hours of supervised clinical training which are equivalent to at least five semester hours of postgraduate education in the examination, diagnosis and treatment of abnormal conditions and pathology of the human eye and its adnexa. The board shall obtain such written certification as it deems appropriate to satisfy itself that the courses reflect on the transcript satisfy the statutory course requirements set forth in R.S. 37:1051(C). Inability of the board to obtain satisfactory written certification as set forth in the preceding sentence shall result in rejection of the optometrist's application under this Section; and

(a). if the applicant's transcript reflects graduation from an accredited school of optometry or completion of the required five semester hours in the examination, diagnosis, and treatment of abnormal conditions and pathology of the human eye and adnexa, between January 1, 1989 and December 31, 1992, the applicant shall also provide written evidence of satisfactorily completing, within the previous year of the application date, at least 12 clock hours of board approved update training in recent ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; or

(b). if the applicant's transcript reflects graduation from an accredited school of optometry or completion of the required five semester hours in the examination, diagnosis, and treatment of abnormal conditions and pathology of the human eye and adnexa, between January 1, 1985 and December 31, 1988, the applicant shall also provide written evidence of satisfactorily completing, within the previous year of the application date, at least 20 clock hours of board approved update training in recent ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; or

(c). if the applicant's transcript reflects graduation from an accredited school of optometry after January 1, 1993, the applicant shall be deemed to have met the educational requirements and upon submission of evidence of current CPR certification and possession of the appropriate epinephrine injector kits the applicant shall be certified; or

v. in lieu of the requirements of LAC 46:LI.503.G.2.b.iv above, written proof of having passed the TMOD and a certified transcript from an approved educational institution evidencing successful completion of 34 clock hours of supervised clinical training after January 1, 1985 which are equivalent to at least two semester hours of postgraduate clinical education in the examination, diagnosis and treatment of abnormal conditions and pathology of the human eye and its adnexa.

3. Certificates. The board will provide each optometrist certified under the provisions of this Subsection with a certificate bearing the original optometric license number followed by a therapeutic certification number.

a. Original therapeutic pharmaceutical agent certificate fee - \$150.

b. Annual renewal of TPA certificate - \$100.

c. T.P.A. re-instatement fee - \$150.

H. Prescriptions

1. Every written prescription shall contain an expiration date and the signature of the optometrist issuing the prescription. The expiration date may not exceed 18 months.

2. Contact lenses may not be sold or dispensed without a written, signed, unexpired prescription.

3. An optometrist may not refuse to release to a patient a copy of the patient's prescription if requested by the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048 and R.S. 37:1051.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Optometry Examiners, September 1975,

promulgated LR 1:463 (October 1975), amended LR 13:241 (April 1987), amended by the Department of Health and Hospitals, Board of Optometry Examiners, LR 19:1573 (December 1993), LR 21:

Chapter 7. Examinations

§701. Written Examination

A. Beginning January 1, 1986, a graduate of an approved school or college of optometry may submit evidence of having reached the recommended levels of acceptable performance on all written parts of the National Board of Examiners in Optometry and a true written copy of the score report of such national board examination to the secretary of the Louisiana State Board of Examiners in lieu of taking the written examination administered by the Louisiana State Board of Optometry Examiners; and

B.1. Beginning with the graduating classes of 1989, every new graduate of an approved school or college of optometry making application to this board for examination and licensure shall submit evidence of having reached the recommended levels of acceptable performance on all written parts of the National Board of Examiners in Optometry and shall cause to be furnished a true written copy of the score report of such national board examinations to the secretary of the board prior to approval by the board of his application to take the clinical-practicum examination administered by the board.

2. Each applicant, after the requirements of the written examination are satisfied, will be given clinical—practicum examinations in written and/or clinical and/or practical form, said examinations to cover those subjects essential to the practice of optometry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 12:22 (January 1986), repromulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 21:

Oral or written comments or inquiries regarding the proposed amendments should be addressed to: James D. Sandefur, O.D., Secretary, Louisiana State Board of Optometry Examiners, Box 555, Oakdale, LA 71467, (318) 335-2980. Comments will be accepted through the close of business at 5 p.m. on September 20, 1995.

The Louisiana State Board of Optometry Examiners must hold a public hearing if requested within 20 days after publication of this notice if at least 25 persons so request, or if a government subdivision or agency or an association with at least 25 members so request, or if the House Committee on Health and Welfare or the Senate Committee on Health and Welfare so requests. Oral and written comments will be accepted at such a meeting if it is held.

The proposed new rules, amendments to existing rules and repromulgated rules comply with statutory law administered by the Board as set forth in R.S. 37:1041 et seq.

James D. Sandefur, O.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: General Provisions, License, Practice, Examination

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated increase or decrease in costs or savings to implement the proposed action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The rule proposes to charge each qualified licensed optometrist holding a therapeutic pharmaceutical agent (TPA) certificate \$100 per year to renew this license. Since there are presently 352 optometrists holding a TPA certificate \$35,200 of additional revenue is estimated each year.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No persons or nongovernmental groups would be directly affected by the proposed action.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed action would have no impact on competition and employment in the public and private sectors.

James D. Sandefur, O.D.
Secretary/Treasurer
9508#042

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Fees (LAC 46:LXXXV.501)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq., notice is hereby given that the Board of Veterinary Medicine intends to amend LAC 46:LXXXV.501.

These changes result from an increase in the cost of the national examinations administered by the board and purchased from an authorized vendor. No other source for this examination is available to any board; failure to offer this examination would result in hardship for students at the LSU School of Veterinary Medicine and a loss of revenue for the board.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 5. Fees

§501. General Fees

The board hereby adopts and establishes the following fees:

1. Licenses
 - Annual renewal of active license \$ 125
 - Annual renewal of inactive license \$ 75

Duplicate license	\$ 25
Original license fee	\$ 100
Temporary license	\$ 100
2. Exams	
Clinical Competency Test (CCT)	\$ 190
National Board Examination (NBE)	\$ 215
NBE and CCT Combination	\$ 355
State Board Examination	\$ 175

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 and 1520.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980) amended LR 18:380 (April 1992), LR 19:1326 (October 1993), LR 21:

Interested parties may submit written comments to Vikki L. Riggle, Executive Director, Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on September 10, 1995. A public hearing on the proposed changes will be held at 10:00 a.m., September 27, 1995, at the board address stated above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Vikki L. Riggle
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Additional costs to the board of \$7,150 are anticipated in per fiscal year for purchase of examinations and \$300 in other one-time administrative costs for fiscal year 96 only.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
With the proposed rule change, revenues would increase by \$7,150 per fiscal year. The cost of the examinations is set by contract nationally. Failure to change this rule would result in a loss of income to the board as a result of its being forced to absorb the costs without the additional revenue to compensate.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Students of any accredited school of veterinary medicine who plan to apply for licensure will bear the increased cost of the examinations. The direct cost being passed on to the students is \$130 per student on average.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Because this test is the only nationally recognized test for entry into the profession of veterinary medicine, no adverse impact is anticipated. The cost of test taking will be consistent from state to state.

Vikki Riggle
Executive Director
9508#073

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Informed Consent (LAC 48:I.2438, 2440, 2442, and 2444)

As authorized by R.S. 40:1299.40(E), as enacted by Act 1093 of 1990 and later amended by Act 962 of 1991, and Act 633 of 1993, the Department of Health and Hospitals, Office of the Secretary, in consultation with the Louisiana Medical Disclosure Panel, is proposing to amend 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. This amends rules adopted in the *Louisiana Register*, Volume 21, Number 7, pages 700-701 (July 1995).

Title 48

PUBLIC HEALTH

Part I. General Administration

Chapter 23. Informed Consent

§2438. Hemodialysis

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for that particular procedure.

1. Hypotension (abnormally low blood pressure);
2. blood vessel access problems;
3. anticoagulant complications such as hemorrhage;
4. cramps;
5. sepsis (infection in blood stream)
6. cardiac arrhythmias (irregular heartbeats);
7. allergic reactions to tubing and dialyzer;
8. abdominal pain;
9. back pain;
10. pulmonary edema (excess fluid in lungs);
11. hypertension (high blood pressure);
12. systemic poisoning from accumulation of toxic levels of metabolic by-products;
13. air bubbles in the bloodstream;
14. abnormal levels of minerals in the blood;
15. acute hemolysis;
16. seizure;
17. blood loss;
18. hypothermia (lowered body temperature);
19. hyperthermia (fever);
20. transfusion complications, such as allergic reaction to blood products;
21. metabolic disorders (protein loss, malnutrition, elevated blood sugar);
22. acquisition of viral infection such as hepatitis or HIV;
23. cardiac arrest (heart stoppage).

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, in consultation with the

Louisiana Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 21:

§2440. Peritoneal Dialysis.

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for that particular procedure.

1. peritonitis (infection within the abdominal cavity);
2. catheter complications (perforation of an organ in the abdomen);
3. hypotension (abnormally low blood pressure)
4. metabolic disorders (protein loss, malnutrition, elevated blood sugar);
5. hypertension (high blood pressure);
6. pulmonary edema (excess fluid in lungs);
7. cardiac arrhythmias (irregular heartbeats);
8. cramps;
9. nausea;
10. cardiac arrest (heart stoppage);
11. use of temporary access catheter.

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, in consultation with the Louisiana Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 21:

§2442. Insertion of Temporary Hemodialysis Access Catheter

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for that particular procedure.

1. blood clots, requiring re-operation;
2. infection;
3. false aneurysm (damaged blood vessel with swelling and risk of rupture);
4. recurrent thrombosis (blood clot);
5. severe edema of extremity (swelling);
6. inadequate blood supply to extremity (interference with blood supply);
7. inadequate blood supply to nerves with resulting paralysis;
8. pneumothorax (air in chest cavity causing collapse of lung).

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, in consultation with the Louisiana Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 21:

§2444. Insertion of Temporary Peritoneal Dialysis Catheter

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for that particular procedure.

1. Peritonitis (infection inside the abdominal cavity);
2. bleeding;

3. infection;
4. intestinal perforation (piercing of an organ within the abdominal cavity);
5. ileus (sluggishness and distention of intestines).

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, in consultation with the Louisiana Medical Disclosure Panel, LR 18:1391 (December 1992), repromulgated LR 19:1581 (December 1993), amended LR 21:

§2446. Percutaneous Renal Biopsy Complications

Note: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for that particular procedure.

1. injury to adjacent organs, such as spleen or liver;
2. infection;
3. hypotension (abnormally low blood pressure);
4. bleeding from the kidney.
5. internal bleeding;
6. intestinal perforation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 21:

Interested persons may submit written comments by September 27, 1995, to Donald J. Palmisano, M.D., J.D., Chairman, Louisiana Medical Disclosure Panel, Department of Health and Hospitals, Box 1349, Baton Rouge, LA 70821-1349. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held at 10 a.m., September 27, 1995, Department of Health and Hospitals, Third floor Library, 1201 Capitol Access Road, Baton Rouge, LA 70802. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Informed Consent**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs anticipated from the adoption of these rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rules will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition and employment from implementation of these rules.

Rose V. Forrest
Secretary
9508#072

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Medicaid Eligibility Manual

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

The Bureau of Health Services Financing proposes to adopt under the Administrative Procedure Act all state and federal requirements and procedures governing the determination of eligibility of persons applying for coverage under Title XIX of the Social Security Act which are incorporated in the Medicaid Eligibility Manual. The full text of the Medicaid Eligibility Manual may be obtained from the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing or the Office of the State Register.

Proposed Rule

The Bureau of Health Services Financing adopts the state and federal requirements and procedures governing the determination of eligibility of persons applying for coverage under Title XIX of the Social Security Act which are incorporated in the Medicaid Eligibility Manual published herein. The Medicaid Eligibility Manual contains the following sections: A) Abbreviations/Acronyms/Definition - Outline; B) Introduction - Outline; C) Medical Services - Outline; D) Persons Eligible - Outline; E) Category - Outline; F) Medical Programs - Outline; G) Application Process - Outline; H) Eligibility Determinations; I) Eligibility Outline - Factors; J) Issuing Medical Eligibility Cards; K) Redeterminations; L) Changes - Outline; M) Transfer - Outline; N) Special Processing - Outline; O) Prior Authorization - Outline; P) Third Party Liability - Outline; Q) Inquiries and Complaints - Outline; R) Reserved; S) Verification and Documentation - Outline; T) Fair Hearings - Outline; U) Fraud and Recovery; Z) Charts - Outline.

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

this proposed rule. A public hearing will be held on this matter at 9:30 a.m., Tuesday, September 26, 1995, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. of the day of the public hearing.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility Manual**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase program costs by approximately \$1000 for SFY 1996 but no costs are anticipated for SFY 1997 and for SFY 1998.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will increase federal revenue collections by approximately \$1000 for SFY 1995-96 but no costs are anticipated for SFY 1997 and for SFY 1998.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Thomas D. Collins
Director
9508#071

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Mental Health Rehabilitation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule in the Medicaid Program as authorized by R.S. 46:153 and under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Financing adopted a rule to revise certain provisions of the Mental Health Rehabilitation Program in order to incorporate the program guidelines and interpretations of the Health Care Financing Administration. This rule was adopted on April 20, 1993 and published in the *Louisiana Register*, Volume 19, Number

4. A subsequent rule established service limits for certain mental health rehabilitation services and revised the definition of treatment integration to ensure the inclusion of appropriate therapeutic principles and skills for this service component and to generate cost savings in the program. This rule was adopted on December 20, 1994 (*Louisiana Register*, Volume 20, Number 12). The Office of Mental Health and the Office of the Secretary for the Department of Health and Hospitals adopted a rule defining Adults with Serious Mental Illness and Children with Emotional/Behavioral Disorders on September 20, 1994 (*Louisiana Register*, Volume 9, Number 9).

The department determined that expenditures for mental health rehabilitation services for persons with serious mental illness have nearly doubled for state fiscal year 1995 over state fiscal year 1994 and that the prior authorization of mental health rehabilitation services including the recipient's eligibility for services as a member of the seriously mentally ill population was necessary to avoid a budget deficit in the state 1996 fiscal year. The Department adopted an emergency rule effective July 15, 1995 (*Louisiana Register*, Volume 21, Number 6) establishing the prior authorization requirement in order for providers to receive Medicaid reimbursement. The following proposed rule seeks to establish this requirement as rule in the Medicaid Program.

Proposed Rule

The Bureau of Health Services Financing adopts the following regulations governing the provision of all mental health rehabilitation services in order for these services to be reimbursed by the Bureau of Health Services Financing under the Medicaid Program.

Providers of mental health rehabilitation services must:

A. obtain prior authorization from the Medicaid agency or its designee certifying candidates for mental health rehabilitation services who are Medicaid eligible and are members of the population of adults with serious mental illness or children with emotional/behavioral disorders as defined by the Office of Mental Health;

B. obtain prior authorization of the mental health rehabilitation plan by the Medicaid agency or its designee;

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

D. participate in the mental health rehabilitation information system and provide up-to-date data including client data, service delivery information and assessment information to the Medicaid program or its designee on a weekly basis via electronic mail.

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

A public hearing will be held on this matter at 9:30 a.m., Tuesday, September 26, 1995, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline

for the receipt of all comments is 4:30 p.m. on the day of the public hearing.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Mental Health Rehabilitation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will decrease program expenditures by approximately \$2,792,000 for SFY 1996; \$2,951,550 for SFY 1997; and \$3,099,128 for SFY 1998.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will decrease federal revenue collections by approximately \$7,208,000 for SFY 1995-96; \$7,548,450 for SFY 1996-97 and \$7,925,873 for SFY 1997-1998.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The statewide providers of the Mental Health Rehabilitation Program will experience the combined reduced state cost savings and federal revenue decreases shown above for the reimbursement of these services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment is unknown.

Thomas D. Collins
Director
9508#070

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Nonemergency Medical Transportation

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

The Bureau of Health Services Financing adopted a rule on October 20, 1994 (*Louisiana Register*, Volume 20, Number 10) which requires that providers of nonemergency medical transportation submit a true and correct document of the insurance policy for automobile and general liability. The bureau has determined that the following changes are

necessary to ensure the provision of nonemergency medical transportation service providers. The following proposed rule allows submission of the certificate of the insurance pending receipt of the true and correct policy. Also the requirement for the submittal of documentation to the bureau is being modified by also requiring that the policy is to be submitted to the bureau within 45 days after enrollment or renewal. In addition submission of the reinstatement endorsement will be acceptable in certain situations, for example, following cancellation or proposed cancellation when there has been no change in coverages under the policy. The prepayment requirement is also being changed from six to three months. A new provision for a 30-day suspension of scheduling privileges will be instituted for those providers who experience a lapse of coverage more than twice in a calendar year.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to implement the following provisions in the Nonemergency Medical Transportation Program which revise prior regulations governing insurance regulations for the Nonemergency Medical Transportation Program.

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

2. The agency requires proof of coverage and such proof shall be in the form of a true and correct copy of the insurance policy for automobile and general liability issued by the home office of the insurance company. The policy must be submitted to the bureau within 45 days of issuance or renewal of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Service Financing. If the true and correct copy of the insurance policy is not received within 45 days then the provider scheduling and transporting privileges shall be suspended effective with the forty-sixth day.

A certificate from the insurance agent, including a facsimile, shall be acceptable proof of insurance for up to 45 days to allow time for the issuance of the policy. The certificate must include the dates of coverage and shall stipulate that the policy includes a 30-day cancellation notification clause. If a facsimile copy of a certificate from an insurance agent is submitted the original shall be submitted timely to the bureau. Certificates not subsequently verified by the policy shall be referred to the attorney general's Medicaid Fraud Control Unit and the provider's scheduling privileges immediately suspended.

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

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

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

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

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

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

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

A public hearing will be held on this matter at 9:30 a.m., Tuesday September 26, 1995, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day of the public hearing.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nonemergency Medical Transportation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed rule will increase program expenditures by \$1,000 for state fiscal year 1996 for the promulgation of this proposed rule but no expenditures are expected for SFY 1997 and 1998.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this rule will increase federal revenue collections by \$500 for SFY 1996; however, no increases are expected for 1997 and 1998.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs to directly affected persons or nongovernmental units. Providers will experience the benefit of having their prepayment period reduced from six to three months under this proposed rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no known effect on competition and employment.

Thomas D. Collins
Director
9508#069

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Insurance
Commissioner of Insurance**

Regulation 56—Credit for Reinsurance

Under the authority of R.S. 22, Sections 2 (H), 3 and 947, the Department of Insurance gives notice that the following proposed regulation is scheduled to become effective November 20, 1995. This intended action complies with the statutory law administered by the Department of Insurance.

**Regulation 56
Credit for Reinsurance
Table of Contents**

- Section 1. Authority
- Section 2. Purpose
- Section 3. Severability
- Section 4. Credit for Reinsurance - Reinsurer Authorized in this State
- Section 5. Credit for Reinsurance - Accredited Reinsurer
- Section 6. Credit for Reinsurance - Reinsurer Maintaining Trust Funds
- Section 7. Credit for Reinsurance Required by Law
- Section 8. Reduction from Liability for Reinsurance Ceded to Unauthorized Assuming Insurer
- Section 9. Trust Agreements Qualified Under Section 8
- Section 10. Letters of Credit Qualified Under Section 8
- Section 11. Other Security
- Section 12. Reinsurance Contract

- Section 13. Agreements requiring approval
- Section 14. Contracts Affected
- Form AR-1 Certificate of Assuming Insurer

The purpose of this regulation is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the statutory provisions on Credit for Reinsurance, R.S. Title 22, Sections 941 et seq. The actions and information required by this regulation are hereby declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state.

Interested persons may obtain a copy of this proposed regulation from Barry W. Karns, Deputy General Counsel, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (504) 342-4673, or from the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802 (Reference number 9508#041).

A public hearing on this proposed regulation will be held at 10 a.m., September 26, 1995, in the Plaza Hearing Room of the Insurance Building, 950 North Fifth Street, Baton Rouge, LA. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to Barry W. Karns, Deputy General Counsel, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (504) 342-4673. Comments will be accepted through the close of business at 4:30 p.m. September 26, 1995.

James H. "Jim" Brown
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 56—Credit for Reinsurance**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this proposed regulation. Any new duties imposed upon the department by this proposed regulation would be handled by existing personnel.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Adoption of this proposed regulation will not have any effect on revenue collections by the state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

It is possible that this proposed regulation could impose additional costs on insurers; however, there is insufficient data available to determine the amount of such costs, if any.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

It is not anticipated that adoption of this proposed regulation would have any effect on employment or competition.

Brenda St. Romain
Assistant Commissioner
Management and Finance
9508#041

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Insurance Commissioner of Insurance

Regulation 57—Life and Health Reinsurance Agreements

Under the authority of R.S. 22, Sections 2 (H), 3 and 947, the Department of Insurance gives notice that the following proposed regulation is scheduled to become effective November 20, 1995. This intended action complies with the statutory law administered by the Department of Insurance.

Regulation 57

Life and Health Reinsurance Agreements

Section 1. Authority

This regulation is promulgated by the Commissioner of Insurance (the "commissioner") under the authority granted by Louisiana Revised Statutes (R.S.) Title 22, Sections 2(H), 3 and 947 and the Administrative Procedure Act, R.S. Title 49, Sections 950 et seq.

Section 2. Preamble

A. The Louisiana Insurance Department recognizes that insurers possessing a certificate of authority routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.

B. However, it is improper for an insurer possessing a certificate of authority in the capacity of ceding insurer, to enter into reinsurance agreements for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement, such as catastrophic mortality or extraordinary survival.

Section 3. Scope

This regulation shall apply to all domestic life and accident and health insurers and to all other life and accident and health insurers which possess a certificate of authority and which are not subject to a substantially similar regulation in their domiciliary state. This regulation shall also similarly apply to property and casualty insurers which possess a certificate of authority with respect to their accident and health business. This regulation shall not apply to assumption reinsurance, yearly renewable term reinsurance or certain nonproportional reinsurance such as stop loss or catastrophe reinsurance.

Section 4. Accounting Requirements

A. No insurer subject to this regulation shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

(1) renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period, are not sufficient to cover anticipated

allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall (using assumptions equal to the applicable statutory reserve basis on the business reinsured). Those expenses include commissions, premium taxes and direct expenses including, but not limited to, billing, valuation, claims and maintenance expected by the company at the time the business is reinsured;

(2) the ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due, such as modified coinsurance reserve adjustments, interest and adjustments on funds withheld, and tax reimbursements, shall not be considered to be such a deprivation of surplus or assets;

(3) the ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against current and prior years' losses under the agreement nor payment by the ceding insurer of an amount equal to the current and prior years' losses under the agreement upon voluntary termination of in force reinsurance by the ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions which allow the reinsurer to reduce its risk under the agreement. An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding company to prematurely terminate the reinsurance treaty;

(4) the ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

(5) the reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income realized from the reinsured policies. For example, it is improper for a ceding company to pay reinsurance premiums, or other fees or charges to a reinsurer which are greater than the direct premiums collected by the ceding company;

(6) the treaty does not transfer all of the significant risk inherent in the business being reinsured. The following table identifies for a representative sampling of products or type of business, the risks which are considered to be significant. For products not specifically included, the risks determined to be significant shall be consistent with this table.

Risk categories:

(a) Morbidity

(b) Mortality

(c) Lapse. This is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy.

(d) Credit Quality (C1). This is the risk that invested assets supporting the reinsured business will decrease in value. The main hazards are that assets will default or that

there will be a decrease in earning power. It excludes market value declines due to changes in interest rate.

(e) Reinvestment (C3). This is the risk that interest rates will fall and funds reinvested (coupon payments or monies received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase.

(f) Disintermediation (C3). This is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal. If asset durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering higher rates. The company may have to sell assets at a loss to provide for these withdrawals.

+ - Significant 0 - Insignificant

Risk Category

a b c d e f

Health Insurance - other than LTC/LTD*

+ 0 + 0 0 0

Health Insurance - LTC/LTD*

+ 0 + + + 0

Immediate Annuities

0 + 0 + + 0

Single Premium Deferred Annuities

0 0 + + + +

Flexible Premium Deferred Annuities

0 0 + + + +

Guaranteed Interest Contracts

0 0 0 + + +

Other Annuity Deposit Business

0 0 + + + +

Single Premium Whole Life

0 + + + + +

Traditional Non-Par Permanent

0 + + + + +

Traditional Non-Par Term

0 + + 0 0 0

Traditional Par Permanent

0 + + + + +

Traditional Par Term

0 + + 0 0 0

Adjustable Premium Permanent

0 + + + + +

Indeterminate Premium Permanent

0 + + + + +

Universal Life Flexible Premium

0 + + + + +

Universal Life Fixed Premium

0 + + + + +

Universal Life Fixed Premium

0 + + + + +

dump-in premiums allowed

*LTC = Long Term Care Insurance

LTD = Long Term Disability Insurance

(7) (a) The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured

and the ceding company does not (other than for the classes of business excepted in Paragraph (7)(b) either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the commissioner which legally segregates, by contract or contract provision, the underlying assets.

(b) Notwithstanding the requirements of Paragraph (7)(a), the assets supporting the reserves for the following classes of business and any classes of business which do not have a significant credit quality, reinvestment or disintermediation risk may be held by the ceding company without segregation of such assets:

Health Insurance - LTC/LTD

Traditional Non-Par Permanent

Traditional Par Permanent

Adjustable Premium Permanent

Indeterminate Premium Permanent

Universal Life Fixed Premium (no lump-in premiums allowed)

The associated formula for determining the reserve interest rate adjustment must use a formula which reflects the ceding company's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula:

$$\text{Rate} = 2 (I + CG)$$

$$X + Y - I - CG$$

Where: I is the net investment income

CG is capital gains less capital losses

X is the current year cash and invested assets

Y is the same as X but for the prior year

(8) Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within 90 days of the settlement date.

(9) The ceding insurer is required to make representations or warranties not reasonably related to the business being reinsured.

(10) The ceding insurer is required to make representations or warranties about future performance of the business being reinsured.

(11) The reinsurance agreement is entered into for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business reinsured and, in substance or effect, the expected potential liability to the ceding insurer remains basically unchanged.

B. Notwithstanding Subsection A, an insurer subject to this regulation may, with the prior approval of the commissioner, take such reserve credit or establish such asset as the commissioner may deem consistent with the Louisiana Insurance Code and rules and regulations of the department, including actuarial interpretations or standards adopted by the department.

C. (1) Agreements entered into after the effective date of this regulation which involve the reinsurance of business issued prior to the effective date of the agreements, along with any subsequent amendments thereto, shall be filed by the

ceding company with the commissioner within 30 days from its date of execution. Each filing shall include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this regulation and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with this department. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this regulation.

(2) Any increase in surplus net of federal income tax resulting from arrangements described in Subsection C(1) shall be identified separately on the insurer's statutory financial statement as a surplus item (aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account, page 4 of the Annual Statement) and recognition of the surplus increase as income shall be reflected on a net of tax basis in the "Reinsurance ceded" line, page 4 of the Annual Statement as earnings emerge from the business reinsured.

(For example, on the last day of calendar year N, company XYZ pays a \$20 million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a 34 percent tax rate, the net increase in surplus at inception is \$13.2 million (\$20 million - \$6.8 million) which is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus account. \$6.8 million (34 percent of \$20 million) is reported as income on the "Commissions and expense allowances on reinsurance ceded" line of the Summary of Operations.

At the end of year N+1 the business has earned \$4 million. ABC has paid \$.5 million in profit and risk charges in arrears for the year and has received a \$1 million experience refund. Company ABC's annual statement would report \$1.65 million (66 percent of (\$4 million - \$1 million - \$.5 million) up to a maximum of \$13.2 million) on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and -\$1.65 million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account. The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations.)

Section 5. Written Agreements

A. No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the department, unless the agreement, amendment or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

B. In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding 90 days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

C. The reinsurance agreement shall contain provisions which provide that:

(1) the agreement shall constitute the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and

(2) any change or modification to the agreement shall be null and void unless made by amendment to the agreement and signed by both parties.

Section 6. Existing Agreements

Insurers subject to this regulation shall reduce to zero by December 31, 1995 any reserve credits or assets established with respect to reinsurance agreements entered into prior to the effective date of this regulation which, under the provisions of this regulation would not be entitled to recognition of the reserve credits or assets; provided, however, that the reinsurance agreements shall have been in compliance with laws or regulations in existence immediately preceding the effective date of this regulation.

Section 7. Effective Date

This regulation shall become effective November 20, 1995.

A public hearing on this proposed regulation will be held at 10 a.m., September 26, 1995, in the Plaza Hearing Room of the Insurance Building, 950 North Fifth Street, Baton Rouge, LA. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to Barry W. Karns, Deputy General Counsel, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (504) 342-4673. Comments will be accepted through the close of business at 4:30 p.m. September 26, 1995.

James H. "Jim" Brown
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 57—Life and Health Reinsurance Agreements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this proposed regulation. Any new duties imposed upon the department by this proposed regulation would be handled by existing personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this proposed regulation will not have any effect on revenue collections by the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is possible that this regulation could impose additional costs on insurers; however, there is insufficient data available to determine the amount of such costs, if any.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that adoption of this proposed regulation would have any effect on employment or competition.

Brenda St. Romain
Assistant Commissioner
Management and Finance
9508#040

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Labor
Office of Workers' Compensation
Second Injury Board**

Assessment and Timely Filing
(LAC 40:III.107 and 301-307)

Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., R.S. 23:1376 and R.S. 23:1377, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation Administration, Second Injury Board ("the board") hereby gives notice that rulemaking procedures have been initiated to amend Chapter 1, §107 and to provide new rules in Chapter 3 of Part III of LAC 40.

The changes to the rules are necessary to allow the board, under Acts 1995 Number 188, effective June 12, 1995, to administer the Second Injury Fund reimbursement program in a timely manner and in order to do so, the board must assess, notify entities, and collect such assessments before the 1996 calendar year. Without rules and regulations, the assessment cannot be timely made; therefore, time is of the essence to implement the rules for administration of the program under law. These proposed rules are also necessary for compliance with Acts 1995 Number 245, effective June 14, 1995, to require presentation of claims to the board within one year after the first payment of either compensation or medical benefits.

These proposed rules are scheduled to become effective November 20, 1995 and the full proposed rule text may be viewed in this August, 1995 *Louisiana Register* in the emergency rules section.

All interested persons are invited to submit written comments on the proposed amendments and regulations. Such comments should be submitted no later than September 18, 1995 at 4:30 p.m. to Alvin J. Walsh, Director, Office of Workers' Compensation Administration, Second Injury Board, 1001 N. 23rd Street, Box 44187, Baton Rouge, LA 70804-4187 or to FAX number (504) 342-7593.

Alvin J. Walsh
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Assessment and Timely Filing

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
None. A cost savings may be realized to the Second Injury Board in the processing of the assessment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The new formula for assessments proposed by these rules, as stipulated in Act 188 of 1995, will result in additional self-generated revenue collections of approximately \$4 million annually.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Implementing the rules will not increase cost, but merely establish the method of the collection of the assessment and provide for appeals.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
None. the change in the assessment should result in a fairer and more equitable assessment to the employers and insurance carriers.

Alvin J. Walsh
Assistant Secretary
9508#014

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Statewide Order 29-Q-2 (LAC 43:XIX.701-707)

Pursuant to power delegated under the laws of the state of Louisiana, including but not limited to Chapter I of Title 30 of the Louisiana Revised Statutes of 1950 and particularly Sections 21 and 204 of said Title 30, which authorizes the commissioner of conservation, among other things, to periodically review the fees collected by his office, the following amendments to rules, regulations, fees, and schedules are proposed by the commissioner of conservation as being reasonably necessary to govern the applications, permitting, monitoring, and maintaining of operations and activities within the regulatory jurisdiction of the Office of Conservation, and to otherwise carry out the laws of this state.

Title 43

NATURAL RESOURCES

Part XIX. Conservation: General Operations

Subpart 2. Statewide Order Number 29-Q-2

Chapter 7. Fees

§701. Definitions

Annual "Inspection" Fee—an annual regulatory fee for inspection, monitoring and regulatory maintenance of all production wells, as authorized by LSA-R.S. 30:21.

Application Fee—an amount payable to the Office of Conservation for processing, reviewing, and administering an application requesting authority to conduct an activity or operation subject to the regulatory jurisdiction of the Office of Conservation.

Application for Automatic Custody Transfer—an application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order Number 29-G.

Application for Commercial Class I Injection Well—an application to construct a commercial Class I injection well, as authorized by Statewide Order Numbers 29-N-1 or 29-N-2.

Application for Commercial Class I Injection Well (Additional Wells)—an application to construct additional Class I injection wells within the same filing, as authorized by Statewide Order Numbers 29-N-1 or 29-N-2.

Application for Commercial Class II Injection Well—an application to construct a commercial Class II or Class V injection well, as authorized by Statewide Order Number 29-B, or other applicable regulations.

Application for Commercial Class II Injection Well (Additional Wells)—an application to construct additional Class II or Class V injection wells within the same filing, as authorized by Statewide Order Number 29-B, or other applicable regulations.

Application for Multiple Completion—an application to multiply complete a new or existing well in separate common sources of supply, as authorized by Statewide Order Number 29-C, and Statewide Order Number 29-C-3, or successor regulation.

Application for Noncommercial Injection Well—an application to construct a Class I, II, III, or V noncommercial injection well, as authorized by Statewide Orders Numbers 29-B, 29-M, 29-N-1, or 29-N-2.

Application for Permit to Drill (Minerals)—an application to drill in search of minerals, as authorized by LSA-R.S. 30:204.

Application for Public Hearing—an application for a public hearing as authorized by LSA-R.S. 30:6(B).

Application for Substitute Unit Well—an application for a substitute unit well as authorized by Statewide Order Number 29-K, or successor regulation.

Application for Surface Mining Development Operations Permit—an application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order Number 29-0-1, or successor regulations.

Application for Surface Mining Exploration Permit—an application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized in Statewide Order Number 29-0-1, or successor regulations.

Application for Surface Mining Permit—an application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order Number 29-0-1, or successor regulations.

Application for Unit Termination—an application for unit termination as authorized by Statewide Order Number 29-L-1, or successor regulation.

Application to Amend Permit to Drill (Injection or Other)—an application to alter, amend, or change a permit to drill an injection, or other well after its initial issuance, as authorized by LSA-R.S. 30:21.*

*Application to Amend Operator (transfer of ownership) for any multiply completed well which has reverted to a single completion (Status 22), any non-producing well which is plugged and abandoned within the timeframe directed by the commissioner as well as any stripper crude oil well or incapable gas well so certified by the Department of Revenue and Taxation shall not be subject to the application fee provided herein as authorized by House Concurrent Resolution Number 6 of the 1995 Regular Session or successor resolution or mandate.

Application to Amend Permit to Drill (Minerals)—an application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by LSA-R.S. 30:204 C.

Application to Commingle—an application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order Number 29-D, or successor regulation.

Application to Process Form R-4—an application for authorization to transport oil from a well as authorized by Statewide Order Number 25-A, or successor regulation.

Class I Injection Well—Class I injection wells within the State used to inject hazardous, industrial, or municipal wastes into the subsurface, which fall within the regulatory purview of Statewide Order Numbers 29-N-1 or 29-N-2.

Class II Injection Well—Class II injection wells which inject fluids which are brought to the surface in connection with conventional oil or natural gas production, including annular disposal wells, for enhanced recovery of oil and natural gas, and for storage of hydrocarbons which are liquid at standard temperature and pressure.

Emergency Clearance—emergency authorization to transport oil from well.

Production Well—any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order Number 29-B in LAC 43:XIX.Subpart 1) or for residential consumption, multiply completed wells reverted to single completion, multiply completed wells which are not reverted to single completions but which are off production are have no future production capability from the current perforated interval, stripper crude oil wells and incapable gas wells certified by the Severance Tax Division of the Department of Revenue and Taxation on January 1 of each year, and shut in or temporarily abandoned oil wells in Stripper Fields as determined by the Office of Conservation effective for the month of January of each year.

Regulatory Fee—an amount payable annually to the Office of Conservation for a particular operation or activity within the regulatory jurisdiction of the Office of Conservation, for

the purpose of permitting, monitoring, and maintaining regulatory control of the particular operation or activity by the Office of Conservation.

Type A Facility—commercial oilfield waste disposal facilities within the State that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order Number 29-B in LAC 43:XIX.Subpart 1, or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

Type B Facility—commercial oilfield waste disposal facilities within the state that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order Number 29-B in LAC 43:XIX.Subpart 1, or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15: 551 (July 1989), LR 21:

§703. Fee Schedule

A. Application Fees

Application for Unit Termination	\$ 210
Application for Substitute Unit Well	\$ 210
Application for Public Hearing	\$ 630
Application for Multiple Completion	\$ 105
Application to Commingle	\$ 210
Application for Automatic Custody Transfer	\$ 210
Application for Noncommercial Injection Well	\$ 210
Application for Commercial Class I Injection Well	\$1,050
Application for Commercial Class I Injection Well (Additional Wells)	\$ 525
Application for Commercial Class II Injection Well	\$ 525
Application for Commercial Class II Injection Well (Additional Wells)	\$ 262
Application for Permit to Drill - Minerals: 0' - 3,000'	\$ 105
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$ 525
Application for Permit to Drill - Minerals: 10,001' +	\$1,050
Application to Amend Permit to Drill - Minerals	\$ 105
Application to Amend Permit to Drill - Injection or Other	\$ 105
Application for Surface Mining Exploration Permit	\$ 52
Application for Surface Mining Development Operations Permit	\$ 78
Application for Surface Mining Permit	\$1,837
Application to Process Form R-4	\$ 26
Application to Reinstate Suspended Form R-4	\$ 52
Application for Emergency Clearance Form R-4	\$ 52

B. Regulatory Fees

1. Operators of each permitted Class I Injection Well are required to pay an annual Regulatory Fee of \$7,350 per Class I Injection Well. Such payments are due within the timeframe prescribed by the Office of Conservation.

2. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,250 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

3. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,625 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

4. Operators of all production wells are required to pay an annual Regulatory Fee ("Inspection Fee") of \$52 per well. Such payments are due within the timeframe prescribed by the Office of Conservation.

5. Operators of each Class II Injection Well are required to pay an annual Regulatory Fee of \$52 per well. Such payments are due within the timeframe prescribed by the Office of Conservation.

6. Operators of Record, including but not limited to operators of oil and/or gas wells, gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of \$105. Such payment is due within the timeframe prescribed by the Office of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15: 552 (July 1989), LR 21: §705. Failure to Comply

A. Operators of operations or activities defined in §701 are required to timely comply with this order. Failure to comply within 30 days past the due date of any required regulatory fee payment may subject the operator to civil penalties under LSA-R.S. 30:18 and LSA-R.S. 30:6(G), and may be cause to immediately suspend operations of the particular operations or activities and schedule a public hearing to show cause why the permit for the particular operations or activities should not be revoked.

B. Failure to timely submit the required application fee payment will result in application denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15: 552 (July 1989), LR 21: §707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order Number 29-Q-2, and if any such individual fee is held to be unacceptable, pursuant to LSA-R.S. 49:968(H)(2), or held invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order supersedes Statewide Order Number 29-Q-1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15: 552 (July 1989), LR 21:

A public hearing will be held under Docket Number 95-363 on September 27, 1995 at 9 a.m. in the Conservation Hearing Room, First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral or written comments on the proposed regulations.

Interested persons are also invited to submit written comments until 5 p.m., September 28, 1995 to Ernest A.

Burguières, III, Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804.

Ernest A. Burguières, III
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Statewide Order 29-Q-2**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no significant additional implementation costs or savings to state or local government agencies, as the proposed Statewide Order Number 29-Q-2 is amending existing application and regulatory fees currently being collected by the Office of Conservation. The fees currently being collected by the Office of Conservation will be replaced by those fees as proposed in the subject Statewide Order Number 29-Q-2.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Current application and regulatory fees generate approximately \$3.48 million annually. The proposed application and regulatory fees as proposed in Statewide Order Number 29-Q-2 will generate approximately \$3.65 million annually, a net increase of \$0.17 million.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed application and regulatory fees as proposed in the subject Statewide Order Number 29-Q-2 will require operators of oil, gas, injection wells, commercial oilfield waste disposal facilities and surface coal/lignite mines to pay a total of approximately \$3.65 million annually. Application fees will generate approximately \$1.97 million of the total and regulatory fees will generate approximately \$1.68 million of the total amount. This fee assessment represents an increase of annual costs (operating costs) to the regulated industries of approximately \$0.17 million. The existing fees currently produce approximately \$1.87 million in application fees and \$1.61 million in regulatory fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of the proposed fees should have little effect on the majority of the regulated industries. Due to the large number of operators, the varying case-specific economic situations of individual operators, and the general exclusion of stripper/incapable wells, it is impossible to assess this issue.

Ernest A. Burguières, III
Commissioner
9508#036

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services Office of Rehabilitation Services

Personal Care Attendant Policy (LAC 67:VII.1127 and 1129)

In accordance with the provision of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) is proposing to revise its Personal Care Attendant (PCA) policy to allow the agency to provide continuing services to applicants and clients. Current policy remains unchanged; however, the addition to the current policy covers such items as fraud and the recovery steps.

Title 67

SOCIAL SERVICES

Part VII. Louisiana Rehabilitation Services

Chapter 11. Personal Care Attendant Policy

§1127. Violations and Penalties

A. The following violations may result in termination of services or other penalties:

1. no longer meets eligibility criteria as outlined in Section VII.B of the Personal Care Attendant Manual;
2. falsified information (time sheets, signed PCA's name to check and/or time sheets, etc.);
3. misuse of PCA funds (failure to pay attendant amount due, use of PCA reimbursement for services unrelated to approved PCA Care Plan, etc.);
4. does not file/pay required taxes;
5. unable to be contacted and/or whereabouts unknown for 30 days or more;
6. any other reason which is contradictory to policy and procedures for the PCA Program.

B. Definition

Fraud—use of trickery of deceit to receive benefits. For fraud to exist, one of the following must exist:

- a. misrepresentation of fact affecting eligibility, amount of benefits, and/or use of PCA funds. The burden of proof that fraud exists is on the CIL;
- b. the misrepresentation must have been made knowingly and with deceitful intent.

Intentional Program Violation—made a false or misleading statement, or misrepresented, concealed or withheld fact; or committed any act that constitutes a violation of the PCA Program or PCA Policy and/or Procedures. Also, a client who repeatedly fails to comply with the policies and/or procedures of the PCA program would be in violation of this section.

C. Warning. The CILs can issue a "warning" to clients who do not willing fully or knowingly commit a violation, such as failure to pay taxes. The CIL would determine if the violation was intentional. If not, written notice of the violation and action to correct the violation is to be given to the client. A copy of the notice to the client is to be placed in the client's file. Repeat of the violation would be brought to

the attention of the PCA evaluation team for consideration of termination.

D. Recoupment

1. In lieu of termination, the PCA evaluation team can demand that a client can refund the PCA program for all benefits received because of a violation as listed above.

2. If the PCA evaluation team rules that the client must repay the amount in question, the CIL will determine the repayment schedule. Client can remain eligible as long as recoupment is made and a willingness to comply with policies and procedures set forth in the PCA Program are shown. The CIL shall maintain close monitoring of client until such time the CIL determines client is complying with the policies and procedures.

3. Recoupment is required from fraudulently received benefits as well, however, the client will not be eligible for further services.

E. Termination. The PCA evaluation team may terminate an individual who violates the policy and/or procedures of the PCA Program. The determination to terminate will be based on the severity of the violation(s) and/or continued violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, LR 17:611 (November, 1993), amended LR 21:

§1129. Procedures for Termination and/or Appeals

When a client is terminated from this program:

1. a copy of the termination letter to the client which explains the reason and right to an appeal will be sent to the CIL;
2. the CIL should provide the client with a copy of the PCA Policy Manual;
3. if the client appeals, a letter will be sent from LRS PCA Program Manager to the CIL which will indicate that the client will continue to receive services until the appeals process is completed;
4. upon receipt of the letter concerning the appeal, the CIL is to contact and advise the client of the continuation of services throughout the appeals process;
5. the CIL will be contacted when the appeal process is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, LR 17:611 (November, 1993), amended LR 21:

Public hearings beginning at 10 a.m. will be held on September 28, 1995, in Baton Rouge, Shreveport, Alexandria, and New Orleans. The hearing locations are as follows: Baton Rouge, 2097 Beaumont Drive, LRS Regional Office; Shreveport, 1525 Fairfield Avenue, LRS Regional Office; Alexandria, 900 Murray Street, LRS Regional Office; New Orleans, 2026 St. Charles Avenue, LRS Regional Office.

All interested persons will be afforded an opportunity to express issues, views, or concerns at the hearings. Written commentary will also be accepted by LRS prior to the

hearings, during the hearings and through October 6, 1995, after the hearings. The written comments should be submitted to May Nelson, Director, Louisiana Rehabilitation Services, 8225 Florida Blvd., Baton Rouge, LA 70806-4834.

Individuals with disabilities who require special services should contact Louisiana Rehabilitation Services at least seven working days prior to the hearing if they wish to attend. For assistance call (504) 925-4131 or (800) 737-2958 or for Voice and TDD (800) 543-2099.

The entire Policy Manual may be viewed at Louisiana Rehabilitation Services State Office, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834 and at the nine Louisiana Rehabilitation Services Regional Offices (statewide) or at the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
RULE TITLE: Personal Care Attendant Policy Manual

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is an established program with an annual budget of \$146,800 state general funds.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
It is projected that an estimated 14 individuals will be served with the \$146,800 of state general funds.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no proposed change in competition and employment in the public and private sectors.

May Nelson
Director
9508#078

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

**Child Placing Agencies with/without Adoption Services
(LAC 48:I.Chapter 41)**

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to amend the Louisiana Administrative Code, Title 48, Part 1, Subpart 3, Licensing, Chapter 41, Child Placing Agencies With and Without Adoption Services.

This proposed rule is mandated by R.S. 46:1401-1424 and can be viewed in its entirety at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802.

Interested persons may request copies as well as submit written comments on this proposed rule to Steve Phillips, Office of the Secretary, Bureau of Licensing, Box 3078, Baton Rouge, LA 70821-3078. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing within 20 days after publication. The deadline date for receipt of all comments is 4:30 p.m., August 10, 1995.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Child Placing Agencies With and Without
Adoption Services**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections on state and local governmental units.
- 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 anticipated costs or economic benefits to any persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The rule will not impact competition or employment.

John W. Joseph
Deputy Secretary
9508#077

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Teachers' Retirement System**

Computation of Final Average Compensation (LAC 58:III)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of the Teachers' Retirement System of Louisiana approved the following method for purposes of computing final average compensation under provisions of Act 577 of the 1995 Regular Legislative Session, R.S. 11:701(5).

Members of the Teachers' Retirement System of Louisiana (TRSL) retiring on or after July 1, 1995, will have their average compensation (highest 36 consecutive or joined months of earnable salary) computed as follows:

A) Full 12-month periods beginning before July 1, 1995, will be calculated using the law in effect on the day the 12-month period begins;

B) Full 12-month periods beginning on or after July 1, 1995, will be calculated using the law in effect on July 1, 1995.

A full 12-month period of the highest 36 consecutive or joined months of earnable salary is defined to be months one through 12, or months 13 through 24, or months 25 through 36.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:701(5),

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 21:

Interested persons may comment on the proposed rule in writing until 4:30 p.m., October 31, 1995, at the following address: Bonita B. Brown, CPA, Teachers' Retirement System of Louisiana, Box 94123, Baton Rouge, LA 70804-9123.

James P. Hadley, Jr.
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Computation of Final Average Compensation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The passage of Act 577 of the 1995 Regular Legislative Session, R.S. 11:701(5), and this corresponding policy will provide a cost savings for the Teachers' Retirement System of Louisiana (TRSL) by limiting salary increases used in the computation of final average compensation. Total savings cannot be estimated at this time. Based upon the nine examples of recent retirees, TRSL would save approximately \$45,000 per year had this new method of computing final average compensation been used in determining the annual retirement benefits.

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)

Salary increases used in the computation of final average compensation will now be limited to 10 percent rather than to 25 percent. The implementation of Act 577 of the 1995 Regular Legislative Session will have an impact on retirement benefits paid by TRSL to certain members who have experienced salary increases greater than 10 percent during their higher 36 successive consecutive months of earnings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James P. Hadley, Jr.
Director
9508#027

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Treasury Board of Trustees of the Teachers' Retirement System

Deferred Retirement Option Plan (DROP) (LAC 58:III)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of the Teachers' Retirement System of Louisiana approved amendments to Policies for Implementation of the Deferred Retirement Option Plan for purposes of implementing Acts 207 and 1110 of the 1995 Regular Legislative Session (R.S. 11:739, and 786 [E]) as follows:

* * *

5. Participation in DROP may not exceed a period of three consecutive years. In order to participate for the maximum three consecutive years, the member must begin DROP participation within 60 calendar days after the first possible eligibility requirement for participation is met (refer to policy one above). The participation period must end not more than three years and 60 calendar days from the date the member first became eligible to participate. The participation period may only be shortened by the participant's termination of employment or death.

In lieu of a participation period not to exceed the remainder of the three consecutive year period from date of first eligibility, a member who became eligible for DROP on or before January 1, 1994, may, at any time, select a participation period which may not exceed two consecutive years.

Notwithstanding any other provision of law to the contrary, any member who is participating in the three-year deferred retirement option plan, as set forth in R.S. 11:786(B), may continue to participate in the plan for an additional period of time which equals the difference between the actual participation of that member in that plan and the three year maximum term of participation, provided the member satisfies all of the following:

(1) on January 1, 1994, the member was not eligible for the full three year period, because of years of service credit or age requirements, or both;

(2) the member chose to participate in the three year plan for the maximum period available;

(3) the member is participating in the three year plan on June 30, 1995;

(4) the member furnishes written notice to the system prior to December 31, 1995, or the end of the participation period that the member initially selected, whichever date occurs first.

Applications must be received on or before the deadline for each examination. Application packets may be obtained from the board office at (504)342-2176.

Vikki Riggle
Executive Director

9508#074

POTPOURRI

**Department of Labor
Office of Employment Security**

Average Weekly Wage

Pursuant to Act 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum worker's compensation weekly benefit amount will be based effective September 1, 1995 has been determined by the Department of Labor to be \$440.55.

Eula M. Brown
Director

9508#076

POTPOURRI

**Department of Labor
Office of Workers' Compensation**

Workers' Compensation Rates

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Department of Labor, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 1995 through August 31, 1996.

Average Weekly Wage	Maximum Compensation	Minimum Compensation
\$ 440.55	\$ 330.00	\$ 88.00

O. Larry Wilson
Deputy Assistant Secretary

9508#075

POTPOURRI

**Department of Social Services
Office of Community Services**

Homeless Trust Fund

The Homeless Trust Fund (HTF) Advisory Council and the Department of Social Services (DSS), Office of Community Services (OCS) announce the availability of up to \$40,000 in trust fund 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, R.S. 46:591-595, and complies with procedures described in the Homeless Trust Fund final rule published in the April 1995 *Louisiana Register*.

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.

Applications for funding to be awarded under the Louisiana Homeless Trust Fund grant program must be received by DSS no later than 4 p.m., Friday, September 29, 1995.

Application packages may be requested by writing to the Office of Community Services, Homeless Trust Fund Coordinator, Box 3318, Baton Rouge, LA 70821, or by telephone to (504) 342-2277.

Gloria Bryant-Banks
Secretary

9508#079

POTPOURRI

**Department of Social Services
Office of Community Services**

**Low-income Energy Assistance Program (LIHEAP)
Block Grant Funds (FFY 1996)**

The Department of Social Services, Office of Community Services will hold public hearings concerning the use and distribution of federal fiscal year 1996 LIHEAP block grant funds in accordance with the LIHEAP State Plan for 1996. The primary purpose of this program is to reduce the burden of home heating and cooling expenses for low-income households through direct payments to home energy suppliers. The second goal is to conserve energy and reduce energy costs of low-income households through the weatherization of dwelling units. The final goal is to provide for energy crisis intervention in instances of weather related and supply shortage emergencies. Delivery of services will be via contractual agreements between local community action agencies or local governmental bodies and the Department of Social Services, Office of Community Services. Each parish will receive a portion of funds based on the number of low-income households residing in the parish and Louisiana's total grant.

Louisiana's share of FFY 1996 LIHEAP block grant funds are anticipated to be near \$11.2 million. However, the final appropriation will be determined by Congress and the President. Should Louisiana's funding level for 1995 be significantly reduced, benefit levels to eligible households will be decreased effective with the new program year beginning October 1, 1995.

Copies of the 1996 Low-income Home Energy Assistance Program Plan are available by writing to Brenda Kelley, Assistant Secretary, Office of Community Services, Box 3319,

Baton Rouge, LA 70821. Comments regarding the 1996 LIHEAP Plan will be accepted through September 22, 1995.

Public hearing regarding the LIHEAP plan will be held at 2 p.m., Friday, September 8, 1995, 333 Laurel Street, Baton Rouge, LA, in Room 806 (Eighth floor conference room).

Gloria Bryant-Banks
Secretary

9508#080

CUMULATIVE INDEX
(Volume 21, Number 8)

1995	
Pages	Issue
1 - 112	January
113 - 242	February
243 - 341	March
346 - 440	April
446 - 536	May
542 - 620	June
627 - 741	July
748 - 890	August

ADMINISTRATIVE CODE UPDATE

Cumulative

- January 1994 - December 1994, 99
- January 1995 - March 1995, 429
- January 1995 - June 1995, 726

AGRICULTURE AND FORESTRY

Agricultural and Environmental Sciences, Office of

- Azinphos-methyl, 630ER
- Bait, 253ER
- Boll Weevil, 17R, 254ER, 408N, 669R
- Fixed wing aircraft, 273N
- Licensee, 548R
- Malathion, 631ER
- Pest management, 542ER
- Pesticide, 38N, 274N, 349ER, 407N, 632ER, 668R
- Plant pest quarantine, 430P
- Prescribed burner, 670R
- Retail floristry exam, 237P, 531P, 882P
- Southern Pine Beetle, 629ER
- Tree seedling, 671R

Forestry, Office of

- Forest tree seedling, 409N
- Prescribed burner, 39N
- Timber stumpage, 5ER, 40N, 119ER, 195N, 447ER

Structural Pest Control Commission

- Adjudicatory proceeding, 275N
- Record keeping, 276N
- Termiticide, 409N, 671R

CIVIL SERVICE

Civil Service Commission

- Merit Pay, 750ER

CULTURE, RECREATION AND TOURISM

State Library, Office of

- Library construction, 839N
- Library technology, 839N

ECONOMIC DEVELOPMENT

Certified Shorthand Reporters, Board of Examiners of Certificate, 21R

- Certification, 595N
- Continuing education, 595N
- Transcript format, 277N, 548R
- Commerce and Industry, Office of**
- Gaming, 257R
- Contractors, Licensing Board for**
- Examination, 840N

Economic Development Corporation

- Contract loan, 41N, 671R
- Casino licensing, 119ER
- Casino suitability, 119ER

Financial Institutions, Office of

- Agency activities, 842N
- Loan production office, 844N
- Real estate, 410N, 675R
- Secured loan, 846N

Racing Commission

- Video Poker purse, 633ER

Radio and Television Technicians Board

- Examining committee, 159R
- Licensing, 159R
- Operations, 159R

Real Estate Appraisal Subcommittee

- Fees, 848N

Real Estate Commission

- Adjudicatory proceeding, 196N, 460R
- Document names, 197N, 461R
- Fees, 848N

EDUCATION

Elementary and Secondary Education, Board of

- 8(g) Policy manual, 411N
- Advisory council, 280N, 550R
- Bulletin 741
 - Instructional time, 259R
 - Student expulsion, 198N, 461R
 - Substance abuse, 199N, 462R
 - Summer school, 708N
 - Technology physics, 708N
- Bulletin 746
 - Certification, 162R, 350ER, 478N, 750ER
 - Health certification, 163R
 - Noncertified personnel, 596N
 - Temporary teaching, 597N
- Bulletin 921
 - Advisory council, 709N
- Bulletin 1196
 - Food/nutrition, 478N, 780R
- Bulletin 1213
 - School bus, 259R
- Bulletin 1475
 - School bus driver, 163R
- Bulletin 1525
 - Personnel evaluation, 6ER, 199N, 462R
- Bulletin 1706
 - Discipline, 133ER, 278N, 447ER, 542ER, 550R

CR-Committee Report

ER-Emergency Rule

N-Notice of Intent

PPM-Policy and Procedure Memorandum

EO-Executive Order

L-Legislation

P-Potpourri

R-Rule

Exceptional children, 45N, 134ER, 134ER, 542ER, 543ER
 Bulletin 1794
 Library book, 201N, 551R
 Textbook, 201N, 352ER, 551R
 Bulletin 1868
 Personnel Manual, 7ER, 163R, 448ER
 Bulletin 1934
 Preschool, 849N
 Bulletin 1943
 Teacher assessment, 135ER, 164R, 202N, 353ER, 412N,
 463R 676R
 Certification, 598N
 Child nutrition, 202N, 463R
 Medication policy, 260R
 Minimum Foundation Program (MFP), 135ER
 Nonpublic administrator, 167R
 Occupational Education Commission, 259R
 Teacher assessment, 543ER
 Teacher pay, 279N,
 Technical institute, 413N, 414N, 464R, 676R 677R
 Vocational education, 7ER, 168R, 205N
 Work experience, 549R

Proprietary School Commission

General policies, 261R
 Surety bond, 261R

Regents, Board of

Degree-granting institution, 168R

ELECTIONS AND REGISTRATION

Elections, Commissioner of

Absentee voting, 237P
 Voter registration, 262R

ENVIRONMENTAL QUALITY

Air Quality and Radiation Protection, Office of

AQ48 Division Source Test Manual, 370R
 AQ88 New stationary sources, 370R, 464R
 AQ89 New stationary sources, 263R, 379R
 AQ98 Fee system, 46N, 206N, 781R
 AQ100 Lead hazard, 102P
 AQ101 Fee system, 22R
 AQ103 Volatile Organic Compound (VOC), 22R
 AQ104 VOC emission, 380R
 AQ105 Significant deterioration, 170R
 AQ106 Industrial wastewater organic compounds, 208N,
 285N
 AQ107 Architectural and Industrial Maintenance
 (AIM) coatings, 532P
 AQ109 Incidental VOC reduction, 284N, 682R
 AQ110 Toxic air pollutant, 57N, 370R
 AQ111 Gasoline bulk plant, 207N, 552R
 AQ112 Acid rain, 281N, 678R
 AQ113 Emissions reduction/new stationary
 sources/volatile organic liquid, 285N, 681R
 AQ115 Nitrogen Oxide, 214N, 544ER, 680R
 AQ116 Vehicle inspection/maintenance, 710N
 AQ117 VOC storage, 416N, 727P
 AQ118 Glycol dehydrators, 480N
 AQ119 Continuous monitoring systems, 415N, 781R
 AQ121 Emissions control/standards, 479N
 AQ122 Small business permitting fees, 481N
 AQ123 Pollutants reportable quantity list, 483N
 AQ125 Undesirable levels, 599N

AQ127 Nonattainment new source, 852N
 AQ129 NESHAP source, 851N
 AQ130 Fugitive emission, 851N
 AQ131 Organic compound emission, 850N
 NE14 Naturally Occurring Radioactive Material (NORM),
 23R
 NE16 Fee schedule, 58N, 215N, 791R
 NE17 Radioactive materials, 135ER, 216N, 553R
 Air quality control regions, 237P
 Outdoor burning, 448ER
 Ozone season, 237P
 Pointe Coupee Parish, 101P
 State Implementation Plan (SIP), 613P
 Toxics emissions report, 532P
 Transportation conformity, 532P

Legal Affairs and Enforcement, Office of

Semi-annual regulatory agenda, 432P

Secretary, Office of

OS16 Adjudications, 555R
 OS21 Risk-based corrective action, 883P
 Emergency response, 854N
 Waste tire, 8ER

Solid and Hazardous Waste, Office of

HW41 Commercial operating permit, 564R
 HW43 RCRA II, 266R
 HW44 RCRA III, 266R, 267R
 HW45 Foreign hazardous waste, 287N
 HW47 HSWA, RCRA, 484N
 HW48 Land ban, 601N
 HW49 Waste analysis/minimization, 711N
 SW15 Fee increase, 61N, 613P

Water Resources, Office of

GW05 Groundwater, 67N, 796R
 WP16 National Pollutant Discharge Elimination System
 (NPDES), 602N, 602N
 WP17 Water pollution fee, 63N, 798R
 WP18 Water bodies, 290N, 683R

EXECUTIVE ORDERS

EWE 94-44 Statewide Wetlands Advisory Task Force, 4
 EWE 94-45 Allocation of Bond, 4
 EWE 94-46 Allocation of Bonds, 5
 EWE 95- 1 Allocation of Bond, 116
 EWE 95- 2 Allocation of Bond, 116
 EWE 95- 3 Allocation of Bond, 117
 EWE 95- 4 Advancement of Disadvantaged African-
 American Males, 118
 EWE 95- 5 Rehabilitation Advisory Council, 248
 EWE 95- 6 Emergency Response Commission, 248
 EWE 95- 7 Targeted Area Residences, 248
 EWE 95- 8 Allocation of Bond, 249
 EWE 95- 9 Allocation of Bond, 250
 EWE 95-10 Allocation of Bond, 250
 EWE 95-11 Child Advocacy Clearinghouse, 251
 EWE 95-12 Proaction Commission for Higher Education, 252
 EWE 95-13 Allocation of Bond, 346

CR—Committee Report

ER—Emergency Rule

N—Notice of Intent

PPM—Policy and Procedure Memorandum

EO—Executive Order

L—Legislation

P—Potpourri

R—Rule

- EWE 95-14 Occupational Information Coordinating Committee, 346
- EWE 95-15 Proaction Commission for Higher Education, 346
- EWE 95-16 Louisiana Serve Commission, 348
- EWE 95-17 Proaction Commission for Higher Education, 348
- EWE 95-18 Issuance of bonds for Superdome Improvements, 446
- EWE 95-19 Allocation of Bond, 627
- EWE 95-20 Allocation of Bond, 627
- EWE 95-21 Allocation of Bond, 628
- EWE 95-22 Allocation of Bond, 748
- EWE 95-23 Allocation of Bond, 748
- EWE 95-24 Allocation of Bond, 749

FIREFIGHTERS' PENSION AND RELIEF FUND

- New Orleans and Vicinity, City of**
- Cost-of-living adjustment, 172R
- Death benefit, 484N
- Service credit, 218N, 566R

GOVERNOR'S OFFICE

- Administration, Division of**
- Community Development, Office of HUD funding, 102P
- State Purchasing, Office of Central purchasing amendments, 566R
- Law Enforcement and Administration of Criminal Justice, Commission on**
- Drug Abuse Resistance Education (D.A.R.E.), 137ER, 291N, 566R
- Oil Spill Coordinator's Office**
- Coastal waters, 883P
- Patient's Compensation Fund Oversight Board**
- Financial responsibility, 393R
- Postsecondary Review Committee**
- Student aid fraud, 238P
- Veterans Affairs, Office of**
- Jackson Veterans Center, 712N
- Veterans home, 487N, 603N, 801R

HEALTH AND HOSPITALS

- Board Certified Social Work Examiners, Board of**
- Fees, 174R
- Minimum supervision, 417N
- Citizens with Developmental Disabilities, Office of**
- Medication attendant, 302N, 694R
- Vocational/habilitative services, 421N, 685R, 805R
- Dentistry, Board of**
- Advertising/soliciting, 292N, 567R
- Continuing education, 295N, 569R
- Dental assistant, 295N, 569R
- Dental hygienist, 296N, 570R
- Dentist licensure, 297N, 571R
- HBV, HCV and HIV viruses, 299N, 572R
- Patient transportation, 301N, 573R
- Restricted license, 298N, 571R
- Embalmers and Funeral Directors, Board of**
- Continuing education, 175R
- Exam, 239P, 432P, 883P
- Funeral establishment, 858N
- License, 859N
- Medical Examiners, Board of**
- Fees, 713N
- International graduate, 466R

Licensure, 713N

Mental Health, Office of

Problem gambler, 220N, 468R

Nursing, Board of

Community-based experience, 418N, 803R

Continuing education, 267R, 804R

Disciplinary proceeding, 271R

Financial interests disclosure, 269R

Licensure, 420N, 574R, 804R

Nursing practice, 267R, 804R

Prohibited payments, 269R

Nursing Facility Administrators, Board of Examiners of Administrator-in-Training (AIT), 175R

Optometry Examiners, Board of

Examination, 860N

General provisions, 860N

License, 860N

Practice, 860N

Physical Therapy Examiners, Board of

Continuing education, 394R, 714N

Definitions, 714N

Examination, 714N

Fees, 394R

Prohibition, 394R, 714N

Practical Nurse Examiners, Board of

Faculty, 421N

Regular admission, 69N, 684R

Professional Counselors, Board of Examiners of

Supervised experience, 218N, 465R

Public Health, Office of

Public health assessment, 336P

Sanitary Code

Seafood, 353ER, 489N, 805R

WIC state plan, 728P

Radiologic Technology Board of Examiners

Continuing education, 178R

Secretary, Office of

Abortion, 178R

Ambulance, 361ER, 634ER, 656ER, 753ER

Annual service agreement, 70N, 396R

Case management, 355ER, 544ER, 546ER, 635ER, 755ER

Chiropractic service, 636ER

Denture, 634ER

Disproportionate share, 255ER, 355ER, 637ER, 638ER

Early, Periodic Screening, Diagnosis and Treatment (EPSDT), 358ER, 491N, 641ER, 750ER

Elderly care/case management, 642ER

Facility need review, 495N, 806R

Federally qualified health center, 642ER

Handicapped, 643ER

Home health, 177R, 256ER, 422N, 644ER, 754ER

Hospital licensing/certification, 177R

Hospital program, 644ER, 645ER, 646ER, 647ER, 648ER

ICF/MR facility, 661ER

Informed consent, 220N, 223N, 423N, 469R 470R, 700R, 866N

KIDMED, 648ER

CR—Committee Report

ER—Emergency Rule

N—Notice of Intent

PPM—Policy and Procedure Memorandum

EO—Executive Order

L—Legislation

P—Potpourri

R—Rule

Lab reimbursement, 649ER
 Maternal and Child Health Block Grant, 491N, 806R
 Medicaid eligibility, 868N
 Medicaid enrollment center, 175R
 Medical equipment, 640ER
 Mental health, 449ER, 545ER, 605N, 649ER, 650ER, 651ER, 868N
 Mentally retarded/developmentally disabled, 652ER, 652ER, 653ER, 653ER, 654ER
 NSF check, 32R
 Neonatology 662ER
 Nonemergency transportation (NEMT), 138ER, 271R, 656ER, 869N
 Nursing facility, 9ER, 79N, 449ER, 657ER, 658ER, 755ER
 Personal Care Attendant (PCA), 658ER
 Pharmacy, 660ER, 660ER
 Physician services, 662ER
 Psychiatric hospital, 362ER, 771ER
 Psychiatric service, 71N, 137ER, 575R, 648ER
 Rehabilitation clinic, 663ER
 Rural health clinic, 664ER
 Substance abuse, 664ER
 Transplant, 363ER
 Transportation, 772ER
 Tuberculosis, 773ER
 Vaccine, 12ER, 453ER
 Voter registration, 8ER, 302N, 354ER, 574R
 X-ray, 649ER

Veterinary Medicine, Board of

Exam, 883P
 Fees, 865N

INSURANCE

Commissioner of Insurance

Regulation 56 Reinsurance credit, 871N
 Regulation 57 Life/health reinsurance, 872N

JUSTICE

Attorney General, Office of

Deceptive pricing, 32R

LABOR

Employment Security, Office of

Average weekly wage, 884P

Workers' Compensation, Office of

Assessment, 774ER, 875N
 Filing, 774ER, 875N
 Insurance cost, 36R, 272R, 364ER, 502N, 814R
 Medical reimbursement, 454ER, 503N
 Workers' compensation rates, 884P

LOUISIANA HEALTH CARE AUTHORITY

Annual service agreement, 70N, 396R

NATURAL RESOURCES

Conservation, Office of

Drug/alcohol misuse/testing, 515N, 826R
 Hazardous liquid pipeline, 504N, 814R
 Hearing, 109P
 Natural gas pipeline, 510N, 820R
 Oilfield, 103P, 397R, 433P, 471R, 728P

Pipeline operation, 513N, 824R
 Statewide Order 29-K-1, 715N
 Statewide Order 29-L-2, 716 N
 Statewide Order 29-O-1, 424N
 Statewide Order 29-Q-2, 665ER, 875N
 Wells in waterbodies, 606N

Secretary, Office of

Energy rated home, 182R, 272R
 Mitigation, 303N, 835R
 Fishermen's gear claims, 614P, 614P, 614P, 615P, 615P, 615P, 616P
 Fishermen's gear fund, 609N

PUBLIC SAFETY AND CORRECTIONS

Fire Marshal, Office of

Building inspection, 13ER
 New construction, 13ER

Liquefied Petroleum Gas Commission

Permits, 305N, 701R
 Repeal certain rules, 305N

Motor Vehicles, Office of

Driver's license, 182R

Pardons, Board of

Clemency, 365ER

Parole, Board of

Quorum, 775ER
 Rules, 80N

Private Investigator Examiners, Board of

Advertising, 305N, 582R

Riverboat Gaming Commission

Agenda item, 426N, 702R

State Police, Office of

Bingo, 14ER, 227N, 472R
 Civil penalty, 184R
 Riverboat gaming, 367ER, 425N, 702R
 Video draw poker, 139ER, 235CR, 307N, 582R

REVENUE AND TAXATION

Sales Tax Division

Agricultural pesticide, 401R
 Coke-on-catalyst, 80N
 Nonresident contractor, 184R
 Tangible personal property, 227N

Severance Tax Division

Natural gas base rate, 434P

Tax Commission

Ad valorem tax, 186R
 Timber stumpage, 5ER, 40N, 119ER, 195N, 447ER
 Property sale ratio, 434P

SOCIAL SERVICES

Community Services, Office of

Child abuse/neglect, 323N, 583R
 Emergency shelter, 336P
 Foster child, 338P
 Homeless Trust Fund, 82N, 401R, 884P

CR-Committee Report

ER-Emergency Rule

N-Notice of Intent

PPM-Policy and Procedure Memorandum

EO-Executive Order

L-Legislation

P-Potpourri

R-Rule

Low-income Energy Assistance Program (LIHEAP), 884P
Social Services Block Grant (SSBG), 435P
Treatment funds, 525N, 836R
Weatherization assistance, 239P

Deaf, Commission for the
Policy Manual, 229N

Family Support, Office of
Flood insurance, 526N, 547ER, 836R
Food stamps, 186R, 608N
Individual/family grant, 84N, 402R
Voter registration, 273R, 609N

Rehabilitation Services
Appeals, 189R
Grant policy, 85N, 583R
Injury trust fund, 718N
Personal care attendant, 879N
Policy manual, 367ER, 528N, 589R, 837R
Selection order, 191R
Sign language, 427N, 837R
Voter registration, 15ER, 91N, 456ER, 473R

Secretary, Office of
Child care, 324N, 527N, 589R, 838R
Child placement 880N
Crisis intervention, 610N

TRANSPORTATION AND DEVELOPMENT

**Associated Branch Pilots for the Port of New Orleans,
Board of Examiners of**

Pilot qualifications, 529N

General Counsel, Office of
Ferries, 91N
Sunshine Bridge, 91N

Highways, Office of
Signs, 325N, 590R
Utilities, 92N

River Port Pilot Commissioners, Board of
Conduct, 224N, 703R
Qualifications, 224N, 703R
Training, 224N, 703R

Sabine River Compact Administration
Meeting, 436P

Utility and Permit Section
Utility notification subscription, 427N, 706R

Weights and Measures
Lab manual, 428N, 706R

TREASURY

Bond Commission
Multi-family housing, 94N, 403R
Reimbursement contract, 96N, 404R

Housing Finance Agency
Rental housing, 456ER, 611N

**State Employees Group Benefits Program, Board of
Trustees of the**
Coinsurance, 327N, 591R
Cost assessment/allocation, 329N, 591R
Dental, 328N, 592R
Dependant, 330N, 592R
Health Maintenance Organization (HMO), 327N, 591R
Plan document, 15ER, 93N, 368ER, 403R
Prescription, 330N, 547ER, 592R, 722N

Retiree 100, 94N, 403R
Surviving spouse, 330N, 592R
Temporomandibular Joint Dysfunction (TMJ), 332N, 594R
Well baby care, 332N, 594R

**State Employees' Retirement System,
Board of Trustees of the**

Definitions, 775ER
Benefit renunciation, 776ER
State service, 776ER

Teachers' Retirement System, Board of Trustees of the
Compensation computation, 880N
Cost-of-living adjustment, 229N, 473R
Deferred Retirement Option Plan (DROP), 881N

Treasurer, Office of
Investment procedures, 230N, 474R

WILDLIFE AND FISHERIES

Fisheries, Office of
Commercial fisherman, 16ER, 16ER, 98N, 99N, 369ER,
369ER, 477R, 477R

Mussel, 193R
Tilapia, 234N, 594R

Wildlife and Fisheries Commission
1995-96 hunting season, 333N, 707R
Alligator, 668ER

Bass, 459ER, 477R, 530N, 530N, 779ER
Crab, 777ER

Crawfish, 458ER, 531N, 777ER
License moratorium, 334N

Migratory bird, 779ER
Mullet, 37R

Oyster, 17ER, 335N, 707R, 780ER
Red Snapper, 17ER

Reef fish, 612N
Seatrout, 257ER

Shrimp, 159ER, 457ER, 458ER, 458ER, 667ER, 667ER,
667ER, 779ER

Trail ride, 723N
Turkey, 724N

Wild Quadrupeds, 668ER, 725N
Wildlife refuge, 194R

CR—Committee Report

ER—Emergency Rule

N—Notice of Intent

PPM—Policy and Procedure Memorandum

EO—Executive Order

L—Legislation

P—Potpourri

R—Rule







