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Executive Orders

EXECUTIVE ORDER MJF 98-22

Bond Allocation—Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction, and equipping of a folding carton manufacturing facility for Field Container Company, L.P. (the "Project"), located at 204 Exchange, West Monroe, Louisiana, parish of Ouachita, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
$5,200,000	Louisiana Public Facilities Authority	Field Container Company, L.P.

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before August 10, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 12th day of May, 1998

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9806#003

EXECUTIVE ORDER MJF 98-23

Unclassified State Employee Leave

WHEREAS, Executive Order No. MJF 96-79, signed on December 30, 1996, provides for rules and policies on annual, compensatory, sick, special, military, and other leave for certain unclassified state officers and employees; and

WHEREAS, it is necessary to replace the provisions of Executive Order No. MJF 96-79;

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

SECTION 1: Applicability

A. The rules and policies established by this Order shall be applicable to all officers and employees in the unclassified service of the executive branch of the state of Louisiana with the exception of elected officials and their officers and employees, and the officers and employees of a system authorized by the Louisiana Constitution or legislative act to manage and supervise its own system. Elected officials of the executive branch may adopt the rules and policies set forth in this Order to govern the unclassified officers and employees within their department.

B. Nothing in this Order shall be applied in a manner which violates, or is contrary to, the Fair Labor Standards Act (hereafter "FLSA"), the Family and Medical Leave Act, or any other applicable federal or state law, rule, or regulation.

SECTION 2: Definitions. Unless the context of this Order clearly indicates otherwise, the words and terms used in this Order shall be defined as follows:

A. "Annual leave" means leave with pay granted to an officer or employee for the purpose of rehabilitation, restoration, or maintenance of work efficiency, or the transaction of personal affairs.

B. "Appointing authority" means the agency, department, board, or commission, or the officers and employees thereof, authorized by statute or lawfully delegated authority to make appointments to positions in state service.

C. "Compensatory leave" means time credited for hours worked outside the regularly assigned work schedule.

D. "Continuing position" means an office or position of employment with the state which reasonably can be expected to continue for more than one (1) calendar year or twelve (12) consecutive months.

E. "Educational leave" means leave that may be granted by an appointing authority to an officer or employee for a limited educational purpose in accordance with the uniform rules developed by the commissioner of administration. "Educational leave with pay" is a subclass of educational leave and is for the purpose of attending an accredited educational institution to receive formalized training which will materially assist the officer or employee in performing the type of work performed by the officer or employee's department.

F. "Intermittent employee" means a person employed in state service who is not hired to work on a regularly scheduled basis.

G. "Leave without pay" and/or "leave of absence without pay" means a period of leave or time off from work granted by the appointing authority, or the appointing authority's designee, for which the officer or employee receives no pay.

H. "Military duty" means the performance of continuous and uninterrupted military duty on a voluntary or involuntary basis and includes active duty, active duty for training, initial active duty for training, full-time National Guard duty, annual training, and inactive duty for training (weekend drills).

I. "Overtime hour" means an hour worked at the direction of the appointing authority, or the appointing authority's designee, by an unclassified officer or employee who is serving in a position which earns compensatory leave:

1. On a day which is observed as a holiday in the department and area of the officer or employee's employment and falls on a day within the workweek, or is observed as a designated holiday in lieu of a regular holiday observed in the department;

2. In excess of the regular duty hours in a regularly scheduled workday;

3. In excess of the regular duty hours in a regularly scheduled workweek;

4. In excess of forty (40) hours worked during any regularly recurring and continuous seven (7) day calendar work period where excessive hours are systematically scheduled;

5. In excess of eighty (80) hours worked during any regularly recurring and continuous fourteen (14) day calendar work period where excessive hours are systematically scheduled;

6. In excess of the hours worked in a regularly established, continuous, and regularly recurring work period where hours average forty (40) hours per week, regardless of the manner in which scheduled; or

7. For the hours an officer or employee works on a day in which a department or division thereof is closed due to an emergency, within the meaning of R.S. 1:55(B)(5).

J. "Regular tour of duty" means an established schedule of work hours and days recurring regularly on a weekly, biweekly, or monthly basis for full-time or part-time unclassified officers or employees.

K. "Seasonal employee" means a person employed on a non-continuous basis for a recognized peak work load project.

L. "Sick leave" means leave with pay granted to an officer or employee who is unable to perform their usual duties and responsibilities due to illness, injury, or other disability, or when the officer or employee requires medical, dental, or optical consultation or treatment.

M. "State service" means employment in the executive branch of state government, including state supported schools, agencies and universities; public parish school systems; public student employment; and membership on a public board or commission; and employment in the legislative and judicial branches. To constitute state service, the service or employment must have been performed for a Louisiana public entity. Contract service does not constitute state service.

N. "Temporary employee" means any person, other than an unclassified appointee, who is continuously employed in the unclassified service of the executive branch for a period which does not exceed and is not reasonably expected to exceed one (1) year or twelve (12) consecutive calendar months.

O. "Unclassified appointee," a subclass of officers and employees in the unclassified service of the executive branch, means certain unclassified officers who are appointed 1) by the governor to serve on the governor's executive staff, the governor's cabinet, and the executive staff of the governor's cabinet, or to serve as the head of a particular agency; 2) by a cabinet member to serve on the cabinet member's executive staff; 3) by the superintendent of the Department of Education to serve on the superintendent's executive staff; or 4) by an elected official in the executive branch who has adopted the rules and policies set forth in this Order, to serve on the elected official's executive staff. An unclassified appointee shall be on duty and available to serve and in contact with their appointing authority throughout the term of their appointment except when on leave. An unclassified appointee shall be on leave and/or use annual and/or sick leave or leave without pay only at those times when the appointee is unavailable to serve their appointing authority as a result of voluntary or involuntary conditions; performing political activities during regular tour of duty hours; or performing for compensation non-appointment related activities, duties, or work during regular tour of duty hours. An unclassified appointee shall only accrue sick and annual leave on the basis of a forty (40) hour work week and shall never be eligible to earn compensatory leave, including compensatory leave earned pursuant to subsection 13(c) of this Order.

P. "Unclassified service" means those positions of state service as defined in Article X, Section 2 of the Louisiana Constitution of 1974, which are not positions in the classified service.

SECTION 3: Full-time Employees. For each full-time unclassified officer or employee, each appointing authority

shall establish administrative work weeks of not less than forty (40) hours per week.

SECTION 4: Granting Leave

A. At the discretion of their appointing authority, or the appointing authority's designee, unclassified officers and employees may be granted time off for vacations, illnesses, and emergencies.

B. At the discretion of their appointing authority, or the appointing authority's designee, an unclassified officer or employee may, for disability purposes, be granted annual leave, leave without pay, or sick leave.

SECTION 5: Earning of Annual and Sick Leave

A. Annual and sick leave shall not be earned by the following persons:

1. Members of boards, commissions, or authorities;

2. Students employees, as defined under Civil Service Rules;

3. Temporary, intermittent, or seasonal employees; and

4. Effective as of the signing and issuance of Executive Order No. MJF 96-79 on December 30, 1996, all part-time employees of the executive department, Office of the Governor.

B. The earning of annual and sick leave, shall be based on the equivalent of years of full time state service and shall be credited at the end of each calendar month, or at the end of each regular pay period, in accordance with the following general schedule:

1. Less than three (3) years of service, at the rate of .0461 hour of annual leave and .0461 hour of sick leave for each hour of regular duty;

2. Three (3) or more years but less than five (5) years of service, at the rate of .0576 hour of annual leave and .0576 hour of sick leave for each hour of regular duty;

3. Five (5) or more years but less than ten (10) years of service, at the rate of .0692 hour of annual leave and .0692 hour of sick leave for each hour of regular duty;

4. Ten (10) or more years but less than fifteen (15) years of service, at the rate of .0807 hour of annual leave and .0807 hour of sick leave for each hour of regular duty; and

5. Fifteen (15) or more years of service, at the rate of .0923 hour of annual leave and .0923 hour of sick leave for each hour of regular duty.

For purposes of this Section, contract service does not constitute either full-time or part-time state service and cannot be used to determine, and has no effect upon, the rate at which annual leave and sick leave is earned by, accrued by, or credited to a full-time or part-time officer or employee in unclassified state service.

C. No unclassified officer or employee shall be credited with annual or sick leave:

1. For any overtime hour(s);

2. For any hour(s) of leave without pay;

3. For any hour(s) of on-call status outside the officer or employee's regular duty hours;

4. For any hour(s) of travel or other activity outside the officer or employee's regular duty hours; or

5. For any hour(s) of a holiday or other non-work day which occurs while on leave without pay.

SECTION 6: Carrying Annual and Sick Leave Forward. Accrued unused annual and sick leave earned by an unclassified officer or employee shall be carried forward to succeeding calendar years without limitation.

SECTION 7: Use of Annual Leave

A. An unclassified officer or employee shall apply for use of annual leave, but it may be used only with the approval of the appointing authority, or the appointing authority's designee. Nonetheless, an unclassified appointee shall not apply for use of, or use, annual leave except for those times when the appointee is unavailable to serve their appointing authority as a result of voluntary or involuntary conditions; performing political activities during regular tour of duty hours; or performing for compensation non-appointment related activities, duties, or work during regular tour of duty hours.

B. An unclassified officer or employee shall apply for use of, and use, annual leave, compensatory leave, or leave without pay when performing political activities, and/or when performing for compensation activities, duties, or work, other than that done in the course and scope of their employment for their employing public agency, during their regular duty/regular tour of duty hours.

C. Annual leave shall not be charged for non-work days and/or non-regular tour of duty hours.

D. The minimum charge to annual leave records shall be in increments of not less that one-tenth (.1) of an hour, or six (6) minutes.

E. An appointing authority, or the appointing authority's designee, may require an unclassified officer or employee to use their accrued annual leave whenever such an action is determined by the appointing authority, or the appointing authority's designee, to be in the best interest of the department. When such an instance occurs, no unclassified officer or employee shall be required to reduce their accrued annual leave to less than two hundred forty (240) hours except:

1. When granted leave without pay, but subject to the military leave provision of Section 17 of this Order; or

2. When the absence from work is due to a condition covered by the Family and Medical Leave Act.

SECTION 8: Use of Sick Leave

A. Sick leave with pay shall be used by an unclassified officer or employee who has accrued sick leave, when an illness or injury prevents the officer or employee from reporting to duty, or when medical, dental, or optical consultation or treatment is attended. Nonetheless, an unclassified appointee shall not apply for use of, or use, sick leave except for those times when the appointee is unavailable to serve their appointing authority as a result of voluntary or involuntary conditions.

B. A medical certificate is not required for an unclassified officer or employee to use accrued sick leave, but the appointing authority, or the appointing authority's designee, has discretion to require such a certificate as justification for an absence.

C. Sick leave shall not be charged for non-work days, or for non-regular tour of duty hours.

D. The minimum charge to sick leave records shall be in

increments of not less than one-tenth (.1) of an hour, or six (6) minutes.

E. Sick leave with pay shall only be granted after it has been accrued by an unclassified officer or employee. Sick leave with pay shall not be advanced.

F. An appointing authority, or the appointing authority's designee, has discretion to place an unclassified officer or employee on sick leave after an officer or employee asserts the need to be absent from work due to an injury or illness.

SECTION 9: Transfer of Annual and Sick Leave

A. A classified or unclassified officer or employee shall have all accrued annual and sick leave credited to them when the officer or employee transfers without a break in state service into a position covered by this Order.

B. An officer or employee shall have all accumulated annual and sick leave, to the extent that is was earned, credited to them when the officer or employee transfers without a break in service from a department not covered by this Order into a department covered by this Order.

C. When an unclassified officer or employee transfers without a break in service to a position covered by other leave rules of the state, the officer or employee's accrued annual and sick leave shall be transferred to the new employing state department or agency. The new employing department or agency shall either hold the annual and sick leave in abeyance or integrate the leave into its own system. The officer or employee's accumulated leave shall not be reduced during such integration.

SECTION 10: Disbursement of Accrued Annual Leave Upon Separation

A. Upon the resignation, death, removal, or other final termination from state service of an unclassified officer or employee, the officer or employee's accrued annual leave shall be paid in a lump sum, up to a maximum of three hundred (300) hours, disregarding any final fraction of an hour. The payment shall be computed as follows:

1. When the officer or employee is paid on an hourly basis, the regular hourly rate that the officer or employee received at the time of termination from state service shall be multiplied by the number of hours of their accrued annual leave, which number is not to exceed three hundred (300) hours; or

2. When the officer or employee is paid on other than an hourly basis, the officer or employee's hourly rate shall be determined by converting the salary the officer or employee received at the time of termination from service into a working hourly rate. The converted hourly rate shall be multiplied by the number of hours of their accrued annual leave, which number is not to exceed three hundred (300) hours.

B. An unclassified officer or employee who is paid for accrued annual leave upon termination from service and who is subsequently reemployed in a leave-earning classified or unclassified position shall reimburse the state service, through the employing agency, for the number of hours the officer or employee was paid which exceeded the number of work hours that transpired during the officer or employee's break from state service. In turn, the officer or employee shall receive a credit for the number of hours of annual leave for which the officer or employee made reimbursement to state service.

SECTION 11: Disbursement of Accrued Sick Leave Upon Separation. An unclassified officer or employee shall not receive payment, directly or in kind, for any accrued sick leave remaining at the time of their termination from unclassified service.

SECTION 12: Continuance of Annual and Sick Leave. An unclassified officer or employee shall receive credit for all accrued unpaid annual leave and all unused sick leave upon reemployment by the state in the unclassified service within a period of five (5) years from date of their termination from state service if the officer or employee's reemployment occurs during the effective period of this Order.

SECTION 13: Compensatory Leave

A. Compensatory leave shall not be earned by the following persons:

1. Unclassified appointees;

2. Student employees, as defined under the Civil Service Rules;

3. Temporary, intermittent, or seasonal employees;

4. Members of boards, commissions, or authorities;

5. The executive director or equivalent chief administrative officer of all boards, commissions, and authorities operating within the executive branch who are appointed by a board, commission, or authority;

6. Other officers of the state who are appointed by the governor, including members of boards, commissions, and/or authorities; and

7. Effective as of the signing of Executive Order No. MJF 96-79 on December 30, 1996, all part-time employees of the executive department, Office of the Governor.

B. Compensatory leave may be earned when an appointing authority, or the appointing authority's designee, requires an unclassified officer or employee in a compensatory leave earning position to work on a holiday or at a time that the officer or employee is not regularly required to be on duty. At the discretion of the appointing authority, compensatory leave may be granted for such overtime hours worked outside the regularly assigned work schedule or on holidays; however, officers or employees exempt from the FLSA shall be compensated for such overtime in accordance with the FLSA.

C. No unclassified officer or employee who sets his own work schedule shall be eligible to earn compensatory leave; however, for overtime work which the appointing authority judges to be extraordinary and which the appointing authority closely monitors, the appointing authority may grant compensatory leave to such an unclassified officer or employee.

D. If an appointing authority permits the earning of compensatory leave to an FLSA-exempt unclassified officer or employee, then the amount of such leave shall be equal to, and not in excess of, the number of extra hours such an officer or employee is required to work.

E. When earned, compensatory leave shall be promptly credited to the unclassified officer or employee and, upon the approval of the appointing authority, or the appointing authority's designee, it may be used by the officer or employee at a future time.

SECTION 14: Use and Disbursement of Compensatory Leave While in Service

A. An unclassified officer or employee who is not exempt from the FLSA shall be paid in cash for any overtime hours worked in excess of the maximum balance allowed by the FLSA.

B. At the discretion of the appointing authority, an unclassified officer or employee may be paid in cash for any compensatory leave earned at the hour for hour rate in excess of three hundred sixty (360) hours.

C. An appointing authority may require an unclassified officer or employee to use their earned compensatory leave at any time.

SECTION 15: Disbursement of Accrued Compensatory Leave Upon Separation

A. When an unclassified officer or employee transfers without a break in service to another department within state service, at the discretion of the new appointing authority, the new department may credit accrued compensatory leave to the transferring officer or employee.

B. When the unclassified officer or employee, who is not exempt from the FLSA, separates from state service or transfers from the department in which the officer or employee earned compensatory leave to a department not crediting the officer or employee with the accrued balance of compensatory leave, the accrued compensatory leave shall be paid at the higher of the following rates:

1. The average regular rate of pay received by the officer or employee during the last three (3) years of his or her employment; or

2. The final regular rate of pay received by the officer or employee.

C. When an unclassified officer or employee, who is exempt from the FLSA, separates from state service or transfers from the department in which the officer or employee earned compensatory leave to a department not crediting the officer or employee with the accrued balance of compensatory leave, the accrued compensatory leave, if paid, shall be paid at the higher of the following rates:

1. The average regular rate of pay received by the officer or employee during the last three (3) years of his or her employment; or

2. The final regular rate of pay received by the officer or employee.

SECTION 16: Special Leave

A. An unclassified officer or employee who is serving in a position that earns annual and sick leave shall be given time off, without loss of pay, annual leave, or sick leave when:

1. Performing state or federal grand or petit jury duty;

2. Appearing as a summoned witness before a court, grand jury, or other public body or commission;

3. Performing emergency civilian duty in relation to national defense;

4. Voting in a primary, general, or special election which falls on the officer or employee's scheduled work day, provided not more than two (2) hours of leave shall be allowed an officer or employee to vote in the parish of employment, and not more than one (1) day of leave shall be allowed an officer or employee to vote in another parish;

5. Participating in a state civil service examination on a regular work day, or taking a required examination pertinent to the officer or employee's state employment before a state licensing board;

6. The appointing authority determines an act of God prevents the performance of the duties of the officer or employee;

7. The appointing authority determines that, due to local conditions or celebrations, it is impracticable for the officer or employee to work in the locality;

8. The officer or employee is ordered to report for a pre-induction physical examination incident to possible entry into the armed forces of the United States;

9. The officer or employee is a member of the National Guard and is ordered to active duty incidental to a local emergency, an act of God, a civil or criminal insurrection, a civil or criminal disobedience, or a similar occurrence of an extraordinary and emergency nature which threatens or affects the peace or property of the people of the state of Louisiana or the United States;

10. The officer or employee is engaged in the representation of a pro-bono client in a civil or criminal proceeding pursuant to an order of a court of competent jurisdiction;

11. The officer or employee is a current member of Civil Air Patrol and, incident to such membership, is ordered to perform duty with troops or participate in field exercises or training, except that such leave shall not exceed fifteen (15) working days in any one (1) calendar year and shall not be used for unit meetings or training conducted during such meetings.

B. At the discretion of their appointing authority, an unclassified officer or employee who is not serving in a position which earns annual or sick leave, but who is regularly employed by the state of Louisiana in the executive branch within the meaning of R.S. 23:965(B) and who is called to serve or is serving on a state or federal grand or petit jury during regular tour of duty hours, may, in conjunction with the provisions of R.S. 23:965(B), be granted a leave of absence without loss of pay or use of accrued leave for a period of up to twelve (12) days per year.

SECTION 17: Military Leave

A. An unclassified officer or employee who is serving in a position that earns annual and sick leave and who is a member of a reserve component of the armed forces of the United States or the National Guard, shall be granted a leave of absence from a state position, without loss of pay or deduction of leave, when ordered to military duty for a period not to exceed fifteen (15) working days in any one (1) calendar year. In addition, an appointing authority may grant annual leave, compensatory leave, leave without pay or any combination thereof, for a period which exceeds those fifteen (15) working days in any one (1) calendar year, in accordance with other provisions of this Order and as required by state and/or federal law. When the unclassified officer or employee is ordered to duty, the officer or employee shall give prompt and immediate notice to the appointing authority, or to the appointing authority's designee.

B. An unclassified officer or employee who is serving in a position that earns sick and annual leave and who is inducted into or ordered to military duty to fulfill a reserve obligation or ordered to active duty in connection with reserve activities for an indefinite period or for a period in excess of annual field training, is eligible for leave with pay as provided in this Order and as required by state and/or federal law.

SECTION 18: Other Leave. An unclassified officer or employee serving in a position that earns annual and sick leave may be eligible to use the following additional types of leave:

A. Optional Leave with Pay. An unclassified officer or employee who is absent from work due to a disability for which the officer or employee is entitled to receive worker's compensation benefits, may use accrued sick or annual leave to receive combined leave and worker's compensation payments equal to and, in an amount not to exceed, the officer or employee's regular salary.

B. Law Enforcement Disability Leave. When an unclassified officer or employee in law enforcement becomes disabled while in the performance of a duty of a hazardous nature which results in their being unable to perform their usual or normal duties, the disabled officer or employee's appointing authority may, with the approval of the commissioner of administration, grant the disabled officer or employee a leave of absence with full pay during the period of such disability without charge against accrued sick or annual leave, provided the officer or employee pays to the employing department all amounts of weekly worker's compensation benefits received by the officer or employee during that period of leave with full pay.

C. Funeral Leave. An unclassified officer or employee may, at the discretion of the appointing authority, be granted leave without loss of pay, or use of accrued leave to attend the funeral, burial, or last rites of a spouse, parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, mother-in-law, father-in-law, grandparent, grandchild, or any other person that the officer or employee's appointing authority deems appropriate, provided such leave shall not exceed a period of two (2) days for any single occurrence. Whenever possible, prior notice of the need to take such leave shall be given by the officer or employee to the appointing authority. At all other times, the officer or employee shall give notice of the need to take such leave at the time it is taken.

D. Educational Leave

1. An appointing authority may grant an unclassified officer or employee educational leave without pay for an approved educational purpose, for a maximum period of twelve (12) months, in accordance with the rules developed by the commissioner of administration. Consecutive periods of leave without pay may be granted to the officer or employee by the appointing authority.

2. Upon the approval of the commissioner of administration and in accordance with the rules developed by the commissioner of administration, an appointing authority may grant an unclassified officer or employee educational leave with pay for a maximum period of thirty (30) calendar days during one (1) calendar year. Upon the approval of the commissioner of administration and in accordance with the rules developed by the commissioner of administration, an appointing authority may grant an unclassified officer or employee educational leave with pay for a maximum of ninety (90) calendar days during one (1) calendar year if, in addition to the general prerequisites necessary for qualification for educational leave with pay, the educational instruction or training to be taken by the officer or employee is also necessary to, or will substantially aid, the administration of the state agency.

3. In accordance with the rules developed by the commissioner of administration, an appointing authority may grant a stipend to an unclassified officer or employee who has been granted educational leave if 1) funds are available for such purposes, 2) the commissioner of administration approves the stipend, and 3) the commissioner of administration finds the stipend will be used for a proper, designated purpose and its proper use is clearly supported with appropriate documentation.

SECTION 19: Leave of Absence Without Pay

A. An appointing authority may extend a leave of absence without pay to an unclassified officer or employee for a period not to exceed one (1) year, provided that such leave shall not prolong the period of the officer or employee's appointment or employment in state service.

B. If an unclassified officer or employee fails to report for, or refuses to be restored to, duty in pay status on the first working day following the expiration of an approved leave of absence without pay, or at an earlier date upon reasonable and proper notice from the appointing authority or the appointing authority's designee, then the officer or employee shall be considered as having deserted their position of appointment or employment.

C. At the discretion of the appointing authority, or at the request of the unclassified officer or employee, a period of leave of absence without pay that has been extended to an officer or employee may be credited, provided such curtailment is in the best interest of state service and reasonable and proper notice thereof is furnished to the officer or employee.

SECTION 20: Holidays

A. Holidays shall be observed as provided in R.S. 1:55 and by proclamation issued by the governor.

B. An unclassified officer or employee in state service in a compensatory leave earning or part-time position may, at the discretion of their appointing authority, receive additional compensation when required to work on an observed holiday.

C. When an unclassified officer or employee is on leave without pay during the period immediately preceding and following an observed holiday, that officer or employee shall not receive compensation for that holiday unless the holiday is worked by the officer or employee.

SECTION 21: Record Keeping

A. Leave records shall be maintained for all unclassified appointees. Daily attendance and leave records shall be maintained for all other unclassified officers and employees who are eligible to accrue or use annual, sick, and/or compensatory leave.

B. An accrued balance of unused annual, compensatory, and/or sick leave shall be held in abeyance for an officer or

employee who becomes ineligible to earn and/or use the particular type of leave pursuant to the terms of this Order. The accrued balance(s) shall be available to the officer or employee, in accordance with the provisions of this Order, when he or she again becomes eligible to earn and/or use said leave, or when he or she separates from state service.

SECTION 22: Compliance

A. All departments, commissions, boards, agencies, and officers or employees of the state, or any political subdivision thereof within the executive branch of state government effected by this Order shall comply with, be guided by, and cooperate in the implementation of the provisions of this Order.

B. The head of each department shall be responsible for deciding the extent to which the discretionary provisions of this Order shall be implemented within their department.

SECTION 23: Effective Dates. Unless specifically designated otherwise, upon signature of the governor, the provisions of this Order shall be applicable to all current and future unclassified officers and employees and, as to current officers and employees, be retroactive to noon on January 8, 1996. Any rights accrued to unclassified officers and employees prior to December 30, 1996, pursuant to the provisions of Executive Order Nos. EWE 94-32 and 95-27, or pursuant to the provisions of Executive Order No. MJF 96-79 prior to the issuance of this Order, shall not be adversely affected by the retroactive application of Executive Order No. MJF 96-79 or this Order. Executive Order No. MJF 96-79 is terminated and rescinded. The provisions of this Order shall remain in effect until amended, modified, terminated, or rescinded by the governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of May, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9806#004

EXECUTIVE ORDER MJF 98-24

Bond Allocation—Parish of Jefferson
Home Mortgage Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS, the Parish of Jefferson Home Mortgage Authority has requested an allocation from the 1998 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences by low and moderate income home buyers throughout the parish of Jefferson, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
$12,921,492	Parish of Jefferson Home Mortgage Authority	Single Family Mortgage Revenue Bond Program

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1998, provided that such bonds are delivered to the initial purchasers thereof on or before August 24, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 26th day of May, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9806#005

EXECUTIVE ORDER MJF 98-25

Bond Allocation—Calcasieu Parish
Public Trust Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS, the Calcasieu Parish Public Trust Authority has requested an allocation from the 1998 Ceiling to be used in connection with a program of financing the construction of an apartment complex project with 400 hundred units for senior citizens, families of low and moderate income levels, and the general public, located in the 4400 block of 5th Avenue, Lake Charles, parish of Calcasieu, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
$8,000,000	Calcasieu Parish Public Trust Authority	Magnolia Pointe 1997 Limited Partnership

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1998, provided that such bonds are delivered to the initial purchasers thereof on or before August 24, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 26th day of May, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9806#006

EXECUTIVE ORDER MJF 98-26

Bond Allocation—Rapides Finance Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS, the Rapides Finance Authority has requested an allocation from the 1998 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences by low and moderate income home buyers throughout the parish of Rapides, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
$7,000,000	Rapides Finance Authority	Single Family Mortgage Revenue Bonds

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1998, provided that such bonds are delivered to the initial purchasers thereof on or before August 24, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 26th day of May, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9806#007

EXECUTIVE ORDER MJF 98-27

Bond Allocation—New Orleans Home Mortgage Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS, the New Orleans Home Mortgage Authority has requested an allocation from the 1998 Ceiling to be used in connection with a program of financing mortgage loans for single family residences to first time home buyers throughout the parish of Orleans, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
$12,921,492	New Orleans Home Mortgage Authority	Single Family Mortgage Revenue Bonds

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1998, provided that such bonds are delivered to the initial purchasers thereof on or before August 24, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 26th day of May, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9806#008

EXECUTIVE ORDER MJF 98-28

Bond Allocation—East Baton Rouge Mortgage Finance Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS, the East Baton Rouge Mortgage Finance Authority has requested an allocation from the 1998 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences in the parish of East Baton Rouge, by low and moderate income home buyers, in accordance with the provisions of

Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
$12,921,492	East Baton Rouge Mortgage Finance Authority	Single Family Mortgage Revenue Bond Program

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1998, provided that such bonds are delivered to the initial purchasers thereof on or before August 24, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 26th day of May, 1998.

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

ATTEST BY
THE GOVERNOR
9806#009

EXECUTIVE ORDER MJF 98-29

Interstate 49 South Project Task Force

WHEREAS, Executive Order Number MJF 97-38, signed on September 18, 1997, created and established the Interstate 49 South Project Task Force (hereafter "Task Force");

WHEREAS, Executive Order Number MJF 98-10, signed on March 11, 1998, extended the time period in which the Task Force was given to prepare and submit to the governor its comprehensive report; and

WHEREAS, it is necessary to amend Executive Order Number MJF 97-38, as amended, in order to add a second at-large member to the Task Force;

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

SECTION 1: Subsection 4 (I) of Executive Order Number MJF 97-38 is amended as follows:

I. Two (2) at-large members.

SECTION 2: All other sections and subsections of Executive Order Number MJF 97-38, as amended by Executive Order Number MJF 98-10, shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 26th day of May, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9806#010

EXECUTIVE ORDER MJF 98-30

Latin American Business Development Commission

WHEREAS, Executive Order Number MJF 97-54, signed on December 3, 1997, established the Louisiana Latin American Business Development Commission (hereafter "Commission");

WHEREAS, Executive Order Nos. MJF 98-7, signed on February 16, 1998; MJF 98-9, signed on March 3, 1998; and MJF 98-18, signed on April 29, 1998, amended several provisions in that Order; and

WHEREAS, it is necessary to amend Executive Order Number MJF 97-54, as amended, in order to add a second at-large member to the Commission;

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

SECTION 1: Section 5 of Executive Order Number MJF 97-54, as amended by Section 3 of Executive Order Number MJF 98-7 and Section 1 of Executive Order Nos. MJF 98-9 and MJF 98-18, is amended to provide as follows:

The Commission shall be composed of seventeen (17) members who shall be appointed by and serve at the pleasure of the governor. The membership of the

Commission shall be selected as follows:

A. The governor, or the governor's designee;
B. The secretary of the Department of Economic Development, or the secretary's designee;
C. The commissioner of Financial Institutions, or the commissioner's designee;
D. One (1) member of the Louisiana International Trade Development Board;
E. One (1) member of the Louisiana Economic Development Council;
F. Ten (10) citizens of the state of Louisiana with at least five (5) years of experience in one or more of the following fields: international trade, finance, economics, oil and gas services, maritime activities, agriculture, world health, governmental relations, and/or environmental protection; and
G. Two (2) at-large members.

SECTION 2: All other sections and subsections of Executive Order Number MJF 97-54, as amended by Executive Order Nos. MJF 98-7, MJF 98-9, and MJF 98-18 shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 26th day of May, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9806#011

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDUM

Office of the Governor
Division of Administration
Office of the Commissioner

General Travel—PPM 49

(*Editor's Note:* The following PPM 49 supersedes all prior issues of PPM 49 published on pages 531-537 of the July 1996 issue of the *Louisiana Register*. This revised PPM 49 also supersedes and replaces PPM 49 which had been designated as Title 4, Part V, Chapter 15 of the *Louisiana Administrative Code*.)

General Travel — PPM Number 49

Section I. Authorization and Legal Basis

A. In accordance with the authority vested in the commissioner of administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given of the revision of Policy and Procedures Memorandum 49, the state general travel regulations, effective July 1, 1998. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

B. Legal Basis—R.S. 39:231

> "The commissioner, with the approval of the governor, shall prescribe rules defining the conditions under which each of various forms of transportation may be used by state officers and employees and used by them in the discharge of the duties of their respective offices and positions in the state service and he shall define the conditions under which allowances will be granted for all other classes of traveling expenses and the maximum amount allowable for expenses of each class."

Section II. Definitions

For the purposes of this PPM, the following words have the meaning indicated.

Authorized Persons—

a. advisors, consultants and contractors or other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et seq.;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided.

Conference/Convention—a meeting for a specific purpose and/or objective. Documentation required is a formal agenda and/or program.

Emergency Travel—under extraordinary circumstances where the best interests of the state require that travel be undertaken not in compliance with these regulations, approval after the fact by the commissioner of administration may be given if appropriate documentation is presented promptly. Each department shall establish internal procedures for authorizing travel in emergency situations.

Extended Stays—of any assignment made for a period of 31 or more consecutive days at a place other than the official domicile.

In-State Travel—all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

International Travel—all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico and the Virgin Islands.

Official Domicile—every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile.

a. Except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace).

b. A traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence.

c. The official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person.

Out-of-State Travel—travel to any of the other 49 states plus the District of Columbia, Puerto Rico and the Virgin Islands.

Per Diem—a flat rate paid in lieu of travel reimbursement for people on extended stays.

State Employee—employees below the level of state officer.

State Officer—

a. state elected officials;

b. department head as defined by Title 36 of the Louisiana Revised Statutes (secretary, deputy secretary, undersecretary, assistant secretary, and the equivalent positions in higher education and the office of elected officials).

Temporary Assignment—any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

Travel Period—a period of time between the time of departure and the time of return.

Travel Routes—the most direct and usually traveled route must be used by official state travelers. All mileage shall be computed on the basis of odometer readings from point of origin to point of return.

Traveler—a state officer, state employee, or authorized person when performing authorized travel.

Section III. General Specifications

A. Department Policies

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the commissioner of administration. Three copies of such regulations shall be submitted for prior review and approval by the commissioner of administration.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. Contracted Travel Services. The state has contracted for travel agency services which must be used unless exemptions have been granted by the Division of Administration prior to travel. Reservations for in-state hotel/motel accommodations are not required to be made through the contracted travel agencies.

4. Authorization to Travel

a. All travel must be authorized and approved in writing by the head of the department, board, or commission from whose funds the traveler is paid. A department head may delegate this authority in writing to one designated person. Additional persons within a department may be designated with approval from the commissioner of administration. A file shall be maintained on all approved travel authorizations.

b. An annual authorization for routine travel shall not cover travel between an employee's home and workplace, out-of-state travel, or travel to conferences or conventions.

5. Funds for Travel Expenses

a. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses that cannot be covered by the corporate credit card. Advances of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the travel voucher covering the related travel, not later than the fifteenth day of the month following the completion of travel.

b. Exemptions. Cash advances may be allowed for:

i. employees whose salary is less than $15,000/year;

ii. employees who applied for the state-sponsored corporate credit card program but were rejected (proof of rejection must be available in agency travel file);

iii. employees who accompany and/or are responsible for students on group or client travel;

iv. new employees or employees who infrequently travel who have not had time to apply for and receive the card;

v. employees traveling for extended periods, defined as 31 or more consecutive days;

vi. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

vii. advance ticket purchase (until a business travel account with a corporate credit card can be established);

viii. registration for seminars, conferences, and conventions;

ix. incidental costs not covered by the corporate credit card, i.e., taxi fares, tolls, registration fees; conference fees may be submitted on a preliminary request for reimbursement when paid in advance;

x. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. All backup data (ticket stub or traveler's copy) must be attached to the final reimbursement request.

6. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

7. State Credit Cards (Issued in the Name of the Agency Only). Credit cards issued in the name of the state agency are not to be used for the purpose of securing transportation, lodging, meals, or telephone and telegraph service, unless prior written permission has been obtained from the commissioner of administration.

8. No Reimbursement When No Cost Incurred by Traveler. No claim for reimbursement shall be made for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

B. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on state Form BA-12, unless exception has been granted by the commissioner of administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. The purpose for extra and unusual travel must be stated in the space provided on the front of the form. In all cases the date and hour of departure from and return to domicile must be shown.

2. Excepting where the cost of air transportation, conference, or seminar is invoiced directly to the agency/department, all expenses incurred on any official trip shall be paid by the traveler and his travel voucher shall show all such expenses in detail to the end that the total cost of the trip shall be reflected by the travel voucher. If the cost of air transportation is paid directly by the agency/department, a notation will be indicated on the travel voucher indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler's copy of the passenger ticket shall be attached to the travel voucher.

3. In all cases, and under any travel status, cost of meals

and lodging shall be paid by the traveler and claimed on the travel voucher for reimbursement, and not charged to the state department, unless otherwise authorized by the Division of Administration.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least $10 is due.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to severe disciplinary action as well as being criminally and civilly liable within the provisions of state law.

Section IV. Methods of Transportation

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, cost of operation of a vehicle, cost and availability of common carrier services, etc.

B. Air

1. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

2. Before travel by privately-owned or by chartered aircraft is authorized by a department head, the traveler shall certify that: 1) at least one hour of working time will be saved by such travel; and 2) no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

a. Chartering a privately-owned aircraft must be in accordance with the Procurement Code.

b. Reimbursement for use of a chartered or unchartered privately-owned aircraft under the above guidelines will be made on the basis of $0.28 per mile or the lesser of commercial air at state contract rate or coach/economy rates unless there are extenuating circumstances which must be approved by the commissioner of administration.

c. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

3. Commercial air travel will not be reimbursed in excess of state contract air rates when available, or coach/economy class rates when contract rates are not available. The difference between contract or coach/economy class rates and first class or business class rates will be paid by the traveler. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline indicating this fact. The certification will be attached to the travel voucher.

a. The state encourages but does not require use of lowest priced airfares where circumstances which can be documented dictate otherwise. Lowest logical fares are penalty tickets that can have restrictions and charge penalty fees for changing/canceling ticket purchases.

b. Where a stopover is required to qualify for a low-priced airfare, the state will pay additional lodging and meals expense subject to applicable limits whereas net savings in total trip expenses results from use of the low-priced airfare. For determining whether there is a savings, the state contract airfare should be used for comparison, or coach/economy fare if there is no contract rate. The comparison must be shown on the travel voucher.

c. The policy regarding airfare penalties is the state will pay the penalty incurred for a change in plans or cancellation only when the change or cancellation is required by the state. Certification of the requirement for the change or cancellation by the traveler's department head is required on the travel voucher.

d. For international travel only, when an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel voucher.

4. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline charge of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

5. If companion fares are purchased for a state employee and non-state employee, the reimbursement to the state employee will be the amount of the lowest logical fare.

6. Contract airfares are to be purchased only through the state's contracted travel agencies and are to be used for official state business. State contract airfares are non-penalty tickets. Therefore no penalty fees are required for changes/cancellations, and no restrictions are imposed on flight schedules. These fares cannot be used for personal/companion or spouse travel. Tickets booked for non-official business under the contract rates will be subject to disciplinary action as well as payment of the difference between fare paid and full coach fare.

7. Traveler is to use the lowest logical airfare/state contract whether the plane is a prop or a jet.

8. Frequent flyer miles and/or bump tickets accumulated from official state business must be used to purchase tickets for official business. Each individual is solely responsible for notification to their agency or department.

9. In order for the state to continue to receive state-contracted airfares, it is necessary that the contract carrier be utilized. When using the contract airfares there are no restrictions or penalties. In many cases, airlines that did not win an award for a certain city, will now offer the same, lower price that was awarded to the contract vendor. This is known as a matched carrier. Matched carriers are not to be used unless there is two or more hour’s difference in the departure

or arrival time. The state does not have a contract with the matched fare carriers; therefore, we do not have last seat availability and certain rules including cancellation penalties will apply to these fares.

10. When making airline reservations for a conference, inform the travel agency that you are attending a conference giving the name of the conference and the airline that are offering the discount rate, if available. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates. If so, giving this information to our contracted agencies could result in them securing that rate for your travel.

11. Uses of Corporate Card

a. The State Travel Office contracts an official state corporate card to form one source of payments for all. All travelers or agencies shall make application through the State Travel Office.

b. If circumstances warrant that the corporate card or B.A. account cannot be used, the department head must sign a letter stating that the traveler for that specific trip is on official state business. The traveler must carry this letter and his/her driver's license to the airport to facilitate boarding, or be subjected to non-boarding or being charged the difference from coach fare cost.

c. The corporate card is the liability of the employee and not the state. An employee terminating state service must return the card to the State Travel Office for cancellation. A retiree may no longer retain his/her card.

C. Motor Vehicle

1. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid state driver's license.

2. If available, safety restraints shall be used by the driver and passengers of vehicles. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

3. State-Owned Vehicles

a. All purchases made on state gasoline credit cards must be signed for by the approved traveler making the purchase. The license number, the unit price, and quantity of the commodity purchased must be noted on the delivery ticket by the vendor. Items incidental to the operation of the vehicle may be purchased via state gasoline credit cards only when away from official domicile on travel status. In all instances where a credit card is used to purchase items or services which are incidental to the operation of a vehicle, a copy of the credit ticket along with a written explanation of the reason for the purchase will be attached to the monthly report mentioned in this subsection. State-owned credit cards will not be issued to travelers for use in the operation of privately-owned vehicles.

b. Travelers in state-owned automobiles who purchase needed repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Each agency/department shall familiarize itself with the existence of such allowances and/or contracts and location of vendors by contacting the Office of State Purchasing, Division of Administration.

c. The travel coordinator/officer/user of each state-owned automobile shall submit a monthly report to the department head, board, or commission indicating the number of miles traveled, odometer reading, credit card charges, dates, and places visited.

d. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files.

e. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the traveler's supervisor if he determines that the best interest of the state will be served and if the passenger (or passenger's guardian) signs a statement acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

4. Personally-Owned Vehicles

a. When two or more persons travel in the same personally-owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage shall be reimbursable on the basis of $0.28 per mile.

c. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance at infrequent or irregular meetings, etc. Within the city limits where his/her office is located, the employee may be reimbursed for mileage only.

d. Reimbursements will be allowed on the basis of $0.28 per mile to travel between a common carrier/terminal and the employee's point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state.

e. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel, the traveler will be reimbursed for in-route expenses inclusive of meals, lodging, and mileage on the basis of $0.28 per mile. The total cost of the mileage may not exceed the cost of travel by state contract air rate or coach rate if no contract rate is available.

f. When a traveler is required to regularly use his/her personally-owned vehicle for agency activities, the agency head may request authorization from the commissioner of administration for a lump sum allowance for transportation or

reimbursement for transportation (mileage). Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Requests for lump sum allowance shall be granted for periods not to exceed one fiscal year.

g. The traveler shall be required to pay all operating expenses of the vehicle including fuel, repairs, and insurance.

5. Rented Motor Vehicles

a. Written approval of the department head prior to departure is required for the rental of vehicles. Such approval may be given when it is shown that vehicle rental is the only or most economical means by which the purposes of the trip can be accomplished. In each instance, documentation showing cost effectiveness of available options must be readily available in the reimbursement files. This authority shall not be delegated to any other person.

b. Only the cost of rental of subcompact or compact models is reimbursable, unless 1) non-availability is documented, 2) the vehicle will be used to transport more than two persons or 3) the cost of a larger vehicle is no more than the rental rate for a subcompact or compact.

c. Collision Deductible Waiver (CDW) is not reimbursable for domestic travel. At the discretion of the department head, CDW costs may be reimbursed for international travel. Should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and reimbursement claimed on a travel expense voucher. The accident should also be reported to the Office of Risk Management (see methods of transportation-motor vehicles).

d. Personal accident insurance when renting a vehicle is not reimbursable. Employees are covered under workmen's compensation while on official state business.

e. Any personal mileage on a vehicle rented for official state business is not reimbursable and shall be deducted.

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport limousines, and taxis is reimbursable when the expenses are incurred as part of approved state travel. For each transaction over $15 a receipt is required.

Section V. Lodging and Meals

A. Eligibility

1. Official Domicile/Temporary Assignment. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of thirty-one calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the thirty-one day period has been previously secured from the commissioner of administration.

2. Travel Period. Travelers may be reimbursed for meals according to the following schedule:

a. breakfast—when travel begins at/or before 6 a.m. on the first day of travel, or extends beyond 9 a.m. on the last day of travel, and for any intervening days;

b. lunch—reimbursement shall only be made for lunch when 1) travel extends over at least one night, 2) or traveler is eligible for both the breakfast and dinner meals or, 3) is in travel status for 12 hours or more in duration. If travel extends overnight, lunch may be reimbursed for those days where travel begins at/or before 10 a.m. on the first day of travel, or extends beyond 2 p.m. on the last day of travel, and for any intervening days;

c. dinner—when travel begins at/or before 4 p.m. on the first day of travel, or extends beyond 8 p.m. on the last day of travel and for any intervening days.

B. Exceptions

1. Twenty Five Percent Over Allowances. Department heads may allow their employees to exceed the lodging and meals provisions of these regulations by no more than 25 percent on a case-by-case basis. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files. This authority shall not be delegated to any other person. Reimbursement requests must be accompanied by receipt.

2. Actual Expenses for State Officers. State officers and others so authorized by statute or individual exception will be reimbursed on an actual expenses basis for meals and lodging except in cases where other provisions for reimbursement have been made by statute. The request for reimbursement must be accompanied by a receipt or other supporting documents for each item claimed and shall not be extravagant and will be reasonable in relationship to the purpose of the travel.

C. Traveler's Meals (Including Tax and Tips)

Travelers may be reimbursed up to the following amounts for meals.

	In-State	Out-of-State Including New Orleans	High Cost
Breakfast	$6	$6	$8
Lunch	$8	$9	$10
Dinner	$12	$14	$19
	$26	$29	$37

Receipts are not required for routine meals within these allowances. Number of meals claimed must be shown on travel voucher. Partial meals such as continental breakfasts or airline meals are not considered meals. If meals of state officials exceed these allowances, receipts are required.

D. Conference Meals

Cost of meals direct billed to an agency in conjunction with state-sponsored in-state conferences exclusive of tax and mandated gratuity.

Lunch In-State excluding New Orleans	$10
Lunch—New Orleans	$12

Refreshment expenditures for a meeting, conference or

convention are to be within the following rates:

served on state property: not to exceed $2 per person, per morning and/or afternoon sessions

served on hotel properties: not to exceed $3.50 exclusive of tax and mandated gratuity per person, per morning and/or afternoon sessions

E. Lodging (Employees will be reimbursed lodging rate, plus tax, receipt required)

$55	In-state (except as listed)
$60	Baton Rouge
$70	Bossier City, Lake Charles, * Shreveport
$80	New Orleans*
$65	Out-of-State (except those listed)
$105	High cost (Atlanta, Baltimore, Boston, Chicago, Cleveland, Dallas, Detroit, Houston, Los Angeles, Miami, Nashville, Philadelphia, Phoenix, Pittsburgh, Portland, Or., San Diego, San Francisco, St. Louis, Seattle, Washington, D.C., all of Alaska or Hawaii)*
$165	New York City*

*The inclusion of suburbs of these cities shall be determined by the department head on a case-by-case basis.

F. Conference Lodging

1. Travelers may be reimbursed expenses for conference hotel lodging per the following rates, if the reservations are made at the actual conference hotel. When reservations are not available at the conference hotel and multi-hotels are offered in conjunction with a conference, traveler shall seek prices and utilize the least expensive. In the event all conference hotels are unavailable, then the traveler is subject to making reservations within the hotel rates as allowed in Subsection E, above.

$65	In-state (except as listed)
$70	Baton Rouge
$80	Bossier City, Lake Charles, Shreveport
$100	New Orleans*, state sponsored conferences
$140	Out-of-state and New Orleans for non-state sponsored conferences*
$165	New York*

*The inclusion of suburbs of these cities shall be determined by the department head on a case-by-case basis.

2. For Conferences hosted by the state you must either use the state contracted travel services or solicit three competitive quotes to include sleeping rooms, meeting rooms, meals and breaks, etc.

3. No reimbursements are allowed for functions not relating to a conference, i.e., tours, dances, etc.

G. Extended Stays. For travel assignment involving duty for extended periods at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

Section VI. Reimbursement for Other Expenses

The following expenses incidental to travel may be reimbursed:

1. communications expenses relative to official state business (receipts required for over $3). Employees on domestic overnight travel status can be reimbursed up to $3 for one call home upon arrival at their destination and a call every second night after the first night if the travel extends several days. Employees on international travel can be reimbursed calls to their home for a maximum of five minutes per call upon arrival to and prior to departure from their destination (within the first or last 24 hours of the trip, respectively). For stays in excess of seven days, one call will be allowed for each additional week. An additional week will be defined to be at least four days in duration;

2. charges for storage and handling of equipment;

3. tips for baggage handling not to exceed $1 per bag for a maximum of three bags, and limited to handling two times for arrival and two times per departure;

4. travelers using motor vehicles on official state business will be reimbursed for necessary storage and parking fees, ferry fares, and road and bridge tolls. For each transaction over $5, a receipt is required;

5. registration fees at conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head);

6. tips for valet parking not to exceed $1 per in and $1 per out, per day, if use is mandatory;

7. laundry services—employees on travel for more than 7 days up to 14 days are eligible for $20 of laundry services, and for more than 14 days up to 21 days an additional $20 of laundry services, and so on. Receipts must be furnished.

Section VII. Special Meals

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc., by federal or local representatives.

2. Extraordinary situations are when state employees are required by their supervisor to work more than a 12-hour weekday or 6-hour weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the commissioner of administration in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year with the exception in Subsection C, as follows.

C. A department head may authorize a special meal within

allowable rates to be served in conjunction with a working meeting of departmental staff.

D. In such cases, the department will report on a semi-annual basis to the commissioner of administration all special meal reimbursements made during the previous six months. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;
2. clear justification of the necessity and appropriateness of the request;
3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;
4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the commissioner of administration to exceed this reimbursement limitation.

E. All of the following must be submitted for review and approval of the department head or their designee prior to reimbursement:

1. detailed breakdown of all expenses incurred, with appropriate receipts(s);
2. subtraction of cost of any alcoholic beverages;
3. copy of prior written approval from the commissioner of administration;
4. receipts.

Section VIII. International Travel

A. All international travel must be approved by the commissioner of administration prior to departure, unless specific authority for approval has been delegated to a department head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate/date, meals, local transportation, etc.), the funding source from which reimbursement will be made, and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the high cost area rates for lodging and meals, unless U.S. State Department rates are requested and authorized by the commissioner of administration prior to departure. Receipts are required for lodging and for meals over the allowed rate.

Section IX. Waivers

The commissioner of administration may waive in writing any provision in these regulations when the best interest of the state will be served.

Mark C. Drennen
Commissioner

9806#001

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Furadan 3G Restrictions
(LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act, R.S. 49:953(B) and R.S. 3:3203(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions in adopting the following rules for the implementation of regulations governing the use of the pesticide, Furadan 3G.

Furadan 3G is an essential pesticide in the control of rice pests. Without its use a substantial portion of the rice crop in Louisiana could be damaged by pests. Because of its effectiveness as a pesticide Furadan 3G poses a threat to the environment if it is misapplied. Because of its threat to the environment the Department has severely limited the use of Furadan 3G. The application of Furadan 3G in accordance with its label, but inconsistent with the Department's rules and regulations and the misuse of this pesticide could pose an imminent peril to the public health, safety and welfare and to the environment.

The Department has, therefore, determined that these emergency rules are necessary in order to implement a registration and permitting requirements program during the current crop year. Information will be gathered to determine whether the effectiveness of this chemical outweighs any potential risk to the public or the environment. The rule becomes effective upon signature and will remain in effect 120 days.

Title 7
AGRICULTURE AND FORESTRY
Part XXIII. Pesticide
Chapter 1. Advisory Commission on Pesticides
Subchapter I. Regulations Governing Application of Pesticides
§143. Restrictions on Application of Certain Pesticides

A. - M. ...

N. 1998 Regulations Governing Application of Furadan 3G

1. Requirements

a. The Commissioner hereby declares that the requirement of this emergency rule apply to the following parishes:

i. Acadia;
ii. Allen;
iii. Avoyelles;
iv. Beauregard;
v. Calcasieu;
vi. Cameron;
vii. Evangeline;
viii. Iberia;
ix. Jefferson Davis;
x. Lafayette;
xi. Pointe Coupee;
xii. Rapides;
xiii. St. Landry;
xiv. St. Martin; and
xv. Vermilion.

b. The Commissioner hereby declares that prior to making any aerial application of Furadan 3G to rice, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs (DPEP) in writing.

c. The Commissioner hereby declares that prior to selling Furadan 3G to be applied on rice, the dealer must first register such intent by notifying the DPEP in writing.

d. The Commissioner hereby declares that prior to blending Furadan 3G with fertilizer to be applied on rice, the blender must first register such intent by notifying the DPEP in writing.

2. Grower/Applicators Liability

a. Growers of rice shall not force or coerce applicators to apply Furadan 3G to their crops when the applicators, conforming to the Louisiana Pesticide Laws and Rules and Regulations or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this section shall forfeit their right to use Furadan 3G on their crops, subject to appeal to the advisory Commission on Pesticides.

b. The DPEP shall immediately be informed of any adverse effects, including but not limited to bird mortality, or misuse resulting from the application of Furadan 3G in connection with these emergency regulations. LDAF will forward to EPA any notification of adverse effects it receives.

3. Furadan 3G Application Restriction

a. Application of Furadan 3G on rice is limited to one (1) application per season.

b. Furadan 3G total acreage shall not exceed 76,000 acres.

c. Do not apply by air within 150 feet of known bird roosting or nesting areas.

d. Permanent flood waters shall not be released until 42 days after application.

e. No Furadan 3G use shall take place until an agent of the LSU Agricultural Center certifies, in writing, that a rice water weevil infestation has reached the threshold level on a parish basis. A parish may be authorized for Furadan 3G use once 4 sites within the parish have been certified as meeting the threshold level.

f. All areas where Furadan 3G is applied under this emergency regulation are required to be posted with signs developed and distributed in accordance with the EPA's Worker Protection Standard (WPS). The signs shall be posted prior to treatment, during treatment, and remain in place for a minimum of 48 hours after treatment.

4. Procedures for Permitting Applications of Furadan 3G

a. Prior to any application of Furadan 3G in the above listed parishes, approval shall be obtained in writing from the Louisiana Department of Agriculture and Forestry (LDAF). Such approval is good for five (5) days from the date issued. Approval shall be obtained by a properly registered and certified aerial applicator from the DPEP.

b. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:

i. weather patterns and predictions;

ii. quantity of acreage to be treated;

iii. targeted pest must exceed established threshold of 5 water weevil larvae per 4 inch by 3 inch core samples;

iv. treatment areas must be certified under C.5. as listed above; and

v. any other relevant data.

5. Reporting of Post-application Furadan 3G. Certified applicators registered to apply Furadan 3G on rice shall maintain a daily record of Furadan 3G applications and provide a summary to the DPEP within 60 days of the end of the application season.

6. Determination of Appropriate Action. Upon determination by the Commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists, he may consider:

a. stop orders for use, sales, or application;

b. label changes;

c. remedial or protective orders;

d. any other relevant remedies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:

Bob Odom
Commissioner

9806#085

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

"One Day to Make a Difference" Pest
Control Donation Program

The Commissioner of Agriculture and Forestry is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to his authority under R.S. 3:3203(A) adopts the rules set forth below.

The members of the Louisiana Pest Control Association (the "Association") have scheduled June 10, 1998 through July 10, 1998 for its "One Day to Make a Difference" activity. During this month members of the Association will work to help individuals and organizations in need better their quality of life through improved pest management by donating pest control services at locations that are in need of, but unable to afford such services.

Recognizing that the "One Day to Make a Difference" program greatly benefits the public welfare, this emergency adoption is necessary in order that the Department may aid the implementation of this program by suspending regulations regarding the issuance of contracts and the requisite fees associated with such contracts.

The regulations described below are declared suspended and will not be enforced in connection with structural pest control work performed by members of the Louisiana Pest Control Association in connection with that association's "One Day to Make a Difference" program:

the fee for termite contracts required under LAC 7:XXV.117.M; and

the requirements of LAC 7:XXV.119 pertaining to contracts.

The regulations suspended above are suspended only in connection with structural pest control work performed on buildings and structures at the following specific locations:

1815 West Gary Street Shreveport	473 East 72nd Street Shreveport
1940 Hickory Street Shreveport	1411 Alston Street Shreveport
1539 Ford Street Shreveport	112 St. John Street Houma
3330 Prescott Road Alexandria	29 Bolton Street Alexandria
2185 Campfire Road Lake Charles	

The effective date of these rules is 12:01 o'clock a.m. June 10, 1998, and they shall remain in effect until 12:01 o'clock a.m. July 10, 1998.

Bob Odom
Commissioner

9806#045

DECLARATION OF EMERGENCY

Department of Economic Development
Boxing and Wrestling Commission

Boxing—Television Broadcasting; Ring Official; Judge; Referee; Hold Harmless Agreement; Judging Method; Fouls; Compensation (LAC 46:XI.Chapter 3)
Wrestling—Deposits; Booking Agent; and Promoter (LAC 46:XI.522, 523 and 525)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B) and 49:967 (D) and adopts the following rules. The emergency rules are necessary to prevent the lost of tax revenues resulting from locations rebroadcasting television related events and

wrestling promoters/producers scheduling of events and to promote the safety and welfare of commission and ring officials and to repeal rules which are not in effect and to join with all sanctioning bodies that have now adopted the *Uniform Rules of Boxing* for championship bouts.

These emergency rules are effective May 14, 1998 and are to remain effective for a period of 120 days or until adoption of the final rule, whichever occurs first.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XI. Boxing and Wrestling
Chapter 3. Professional Boxing

§304. Deposits: Closed Circuit and Pay-Per-View Television Rebroadcasting

All locations rebroadcasting television related events, may be required to deposit a maximum of $ 1,000.00, in advance for expenses and taxes. *Location* in this particular rule meaning any casino, public auditorium, hotel or civic center. Money, less taxes and expenses, will be refunded by the Commission to producer if taxes collected do not equal amount deposited. If taxes exceed the deposit, then the commission will proceed with collecting taxes as outlined in Revised Statute 4:67. Sports bars with a 250 person capacity or less will be required to purchase a permit for $100.00; sports bars with a 400 person capacity or less will be required to purchase a permit for $200.00; over 400 person capacity a promoters license is required. If sports bars are part of a location, as defined in this rule, then the same rule will apply as a location. Five percent taxes will apply as indicated in Revised Statute 4:67. Complimentary passes or tickets are taxable if ticket prices are outlined in the television contract or advertised and sold at a specified price. The capacity of a location will be determined by the state/local fire marshal's office. Locations are required to obtain a promoters license from the commission; sports bars with a capacity of less than 400 are exempt from purchasing a promoters license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§314. Prohibited Ring Official Assignments

A ring official domiciled in the State of Louisiana shall not accept an assignment in the United States or its possessions that is not sponsored, sanctioned, approved or supervised by the commission, another official state commission, or a member of the Association of Boxing Commissions. *Official State Commission*, in this rule, meaning a commission domiciled and coming under the jurisdiction and regulatory powers of their state or United States possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§315. Judges and Referees

A. - B.2. ...

C. The referee is the sole arbiter of a bout and is the only individual authorized to stop a contest.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D. R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 24:

§316. Hold Harmless and Indemnity Agreement

All individuals, except the members of the commission, acting in any official capacity for any event(s) sanctioned by the commission shall be required to execute the Hold Harmless and Indemnity Agreement of the commission, prior to receiving any assignment from the commission. This shall be in addition to the agreement as set forth in the license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§317. Judging Methods and Procedures

A. Scoring

1.a. - d. ...

2. It is also noted that sportsmanship should be taken into consideration by the judges and the condition of the boxer at the end of the bout. The items listed do not have the same scoring value. Clearly, a man who hits his opponent and is aggressive throughout the contest, is entitled to more credit than the one who is merely defensive and shows ring generalship. If the referee or the commission shall decide, at any time, that either contestant did not enter into a contest in good faith, or if the commission or referee discovers, at any time, that either or both contestants are not performing their part in good faith, or is guilty of any foul tactic, or of faking, or of violating any rule of the commission, the referee or commission may stop the contest. The referee may stop the contest when either contestant shows marked superiority or is apparently outclassed. If a contestant is knocked down, or falls through weakness, he must get up unassisted within 10 seconds. The referee shall count off the seconds. If the contestant attempts to get up, and goes back down, the count shall be continued by the referee where he left off. During the count, the opponent shall go to the farthest neutral corner and remain there. Should the opponent refuse to do so, or leave the farthest neutral corner, the referee may stop counting. Upon compliance by the opponent, however, the referee shall continue counting where he left off. If a contestant, who has fallen out of the ring during a contest, fails to return immediately, the referee shall count him out as if he were "down" allowing 20 seconds. The boxer is to be unassisted by his seconds. In every round of a bout, should a boxer be down at the time the bell rings ending the round, the count shall continue until the boxer gets up or is counted out. The termination of the bout is at the discretion of the referee and/or the ring physician. Should a contestant leave the ring during the one-minute period between rounds, and fail to be in the ring when gong rings to resume boxing, the referee shall declare his opponent the winner. A contestant shall be deemed "down" when:

a. any part of his body other than his feet is on the floor;

b. or he is hanging helplessly over the ropes;

c. or he is rising from a "down" position.

3. Answering the Bell. Should a contestant finish any one round of a contest and fail to answer the bell for the succeeding round for any one of numerous reasons, such as cuts, injuries or admission of overwhelming superiority, the proper termination of the bout is by a technical knockout in the round for which he fails to answer the bell. For instance, both contestants have finished round 6. One of them fails to answer the bell for round 7, or indicates to the referee that he will not answer the bell. It is a "TKO-7." Indeed the man should be regarded as technically counted out while seated in his corner just as though the bell sounded for the seventh round. Certainly he completed round 6 and cannot, therefore, be charged with a loss in the sixth. Boxers suffering a knockout or a technical knockout will automatically be suspended for a minimum period of 30 days. Any violation of this rule jeopardizes the welfare of the boxer. No boxer will be reinstated in less than 30 days unless investigated and specifically authorized by the commission or commission physician.

B. In the event a boxer has been knocked down the referee shall order such boxer's opponent to a neutral corner and commence a count of eight and such mandatory eight count after knockdowns is standard procedure in all bouts. Upon completion of said eight count the referee shall determine whether such boxer is able to continue.

C. There is no standing eight count.

Existing C. - G. are renumbered to D. - H., respectively.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D, R.S.4:64, R.S. 4:76 and R.S. 4:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 24:

§318. Rounds, Duration and Intermission

A. - B. ...

C. Each championship contest will be scheduled for twelve (12) rounds, one hundred eighty (180) seconds long, and a sixty (60) second rest period.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 24:

§321. Fouls, Deductions of Points Because of a Foul and Accidental Fouling

A.1. - 17. ...

B. If a contestant fouls his opponent during a contest or commits any other infraction, the referee may penalize him by deducting points from his score, whether or not the foul or infraction was intentional. The referee may determine the number of points to be deducted in each instance and shall base his determination on the severity of the foul or infraction and its effect upon the opponent. Point deductions for intentional fouls are mandatory.

C. If an intentional foul causes an injury, and the injury is severe enough to terminate the bout immediately, the boxer causing the injury shall lose by disqualification.

D. If an intentional foul causes an injury, and the injury results in the bout being stopped in a later round, the injured boxer will win by a technical decision if he is ahead on the score cards or the bout will result in a technical draw if the injured boxer is behind or even on the score cards.

E. If a boxer injures himself while attempting to intentionally foul his opponent, the referee will not take any action in his favor, and this injury will be the same as one produced by a fair blow.

F. When the referee determines that it is necessary to deduct a point or points because of a foul or infraction, he shall warn the offender of the penalty to be assessed.

1. - 3. Repealed.

G. The referee shall, as soon as practical after the foul, notify the judges and both contestants of the number of points, if any, to be deducted from the score of the contestant.

H. Any point or points to be deducted for any foul or infraction must be deducted in the round in which the foul or infraction occurred, and may not be deducted from the score of any subsequent round.

I. Accidental Foul

1. If a bout is stopped because of an accidental foul, the referee shall determine whether the boxer who has been fouled can continue or not. If the boxer's chance of winning has not been seriously jeopardized as a result of a foul, the referee may order the bout continued after a reasonable interval. Before the bout begins again, the referee shall inform the commission's representative of his determination that the foul was accidental.

2. If the referee determines that the bout may not continue because of an injury suffered as the result of an accidental foul, the bout will result in a technical draw if stopped before four (4) completed rounds.

3. If an accidental foul renders a contestant unable to continue the bout after four (4) completed rounds have occurred the bout will result in a technical decision awarded to the boxer who is ahead on the score cards at the time the bout is stopped.

a. Partial or incomplete rounds will not be scored.

b. However, any point deduction(s) occurring during this partial round will be deducted from the score of the completed rounds.

G. If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the bout stopped because of the injury, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the bout.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 24:

§328. Event Approval

A. A member of the Louisiana Boxing and Wrestling Commission, including the Chairman, may not legally and/or officially authorize and/or give approval to any television network, corporation, limited liability company, promoter, match-maker or any other entity, private or corporate, for any major event date and site selection, without the prior approval of a majority of the commission members voting in favor. *Major Event* in this rule means any boxing, kick-boxing or

wrestling (WCW, WWF, etc.) contests that the State of Louisiana authorizes this commission to sanction. Minor local wrestling shows may be excluded from this rule. (Local area commissioners should coordinate these shows through the deputy commissioners and chairman, once they are made aware of such events.)

B. Once a commissioner is contacted by a promoter, he must advise the promoter that a typewritten request on official letterhead must be submitted to the chairman by mail or facsimile. In the request disclosure must be made regarding the venue (television contracts, promoter, matchmaker, number of bouts, bout contracts, arena contracts, sanctioning bodies, ticket information, etc.) After date and site selection is approved, full disclosure of all venue information must be submitted no later than two weeks prior to the event.

C. Once an official request is made, the chairman must call a meeting to approve or reject the request. A quorum, according to state statute, must be present to approve or reject such requests. An emergency meeting will not be necessary, if the time table is such, that the request may be discussed at the regular scheduled commission meeting.

D. The commission may demand that all monies relative to boxing venues be placed in escrow in the commission treasury. *Monies* in this rule means fighters purses and ring officials (referees, timekeepers, inspectors, physicians, judges, etc.) expenses. All ring officials pay will be predetermined and coordinated through the commission with the promoter. The ring officials will be paid by commission checks the same day or night before the start of the first bout. If the commission required fighters' purses to be placed in escrow then the fighters also will be paid by commission checks, less any expenses due the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§335. Compensation of Officials

All officials, including ring doctors, that participate in an event sanctioned by the commission, shall be compensated by the promoters/producers. The amount compensated will be pre-determined, prior to the event, between the commission and the promoter/producer. Officials, in this rule, not to include the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§353. Penalties and Sanctions

Anyone licensed and/or subject to the authority of the commission, who violates any of the rules and regulations of the commission as set forth in title, parts and chapters, shall be subject to such sanctions as imposed by the commission which may result in fines, suspensions and revocations of licenses to be determined by the commission pursuant to the laws of the State of Louisiana and the authority of the commission vested to the commission by those laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:82.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

Chapter 5. Professional Wrestling

§522. Wrestling Event Deposits

Wrestling promoters/producers will be required to deposit, in advance, with the commission $250.00 to secure a date for their scheduled event. This amount will be applied to taxes and deputies expenses; any cancellation of the advanced booking, will result in the loss of the deposit and will be deposited in the commission's treasury. If taxes and expenses do not exceed the $250.00 deposit, the commission will refund the excess to the promoter/producer. If expenses and taxes exceed the $250.00 deposit, the commission will then collect taxes as outlined in Revised Statute 4:67.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§523. Wrestling Booking Agent

Repealed (Reserved).

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

§525. Wrestling Promoters

Repealed (Reserved).

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Department of Economic Development, Boxing and Wrestling Commission, LR 24:

Fielding Lewis
Chairman

9806#037

DECLARATION OF EMERGENCY

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

Medicaid Eligibility—Hemophilia Settlement

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

Under a recent settlement, four manufacturers of blood plasma products will pay $100,000 to each of 6,200 hemophilia patients who are infected with Human Immunodeficiency Virus (HIV). Approximately 1,000 of the HIV-infected patients are already eligible for Medicaid. Payment made under the settlement to these individuals would

in most instances cause them to exceed the income and/or resource limit for Medicaid eligibility. To avoid potential loss of Medicaid for these individuals, section 4735 of the Balanced Budget Act of 1997 (BBA) provides that, not withstanding any other provision of law, payments made to class members under this settlement shall not be considered as income or resources in determining either eligibility for or the amount of benefits under the Medicaid program.

Regulation 42 CFR 435.122 require states to provide Medicaid to individuals who would be eligible for Supplemental Security Income (SSI) or an optional state supplement except for an eligibility requirement used in those programs that is specifically prohibited under Medicaid. The settlement payments are counted as income and resources under SSI, but cannot be counted under Medicaid. Thus, under 42 CFR 435.122 states must provide Medicaid to individuals who lose SSI eligibility because of receipt of the settlement, even if their sole basis for eligibility for Medicaid was receipt of SSI benefits. While the settlement payments themselves may not be counted as income or resources under Medicaid, Section 4735 does not similarly exempt any income that may be derived from those payments. Provisions governing transfers of assets and treatment of trusts under Section 1917 of the Social Security Act are not applicable, since the settlement payments are not counted as income or resources in determining eligibility.

This action is necessary to comply with the Balanced Budget Act of 1997. The fiscal impact for the implementation of this rule cannot be determined as the identity of settlement recipients has been sealed by the court and we cannot estimate the number of Louisiana citizens who are class members under this settlement.

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4735 of the Balanced Budget Act of 1997 which state that not withstanding any other provision of law, payments made from any fund established pursuant to a class settlement entitled, "Factor VIII or IX Concentrate Blood Products Litigation," MDL 986 (no. 93-C-7452, Northern District of Illinois) shall not be considered as income or resources in determining either eligibility for, or the amount of benefits under, the Medicaid program. While the settlement payments may not be counted as income or resource under Medicaid, Section 4735 does not similarly exempt any income that may be derived from those payments. Provisions governing transfers of assets and treatment of trusts under Section 1917 of the Social Security Act are not applicable, since the settlement payments are not counted as income or resources in determining eligibility.

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

David W. Hood
Secretary

9806#065

DECLARATION OF EMERGENCY

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

Pharmacy Program—Erectile Dysfunction Drugs

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

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides coverage for prescriptions drugs for treatment of erectile dysfunction without limitation through the Pharmacy Program under the Medicaid Program. The department has determined it is necessary to limit the number of units of these drugs that are reimbursed under the Medicaid Program to six units per month. This emergency rule is being adopted in an effort to prevent potential abuse of these prescriptions drugs. The estimated savings as a result of the implementation of this rule cannot be determined at this time.

Emergency Rule

Effective for dates of service on or after May 22, 1998, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will limit the number of units of prescription drugs for the treatment of erectile dysfunction that are reimbursable by the Medicaid Program to six units per month per patient. Units include tablets, injectable, intraurethal pellets and any other dosage form which may become available. In addition, the following provisions will govern the reimbursement for these drugs.

1. Prescriptions issued for the treatment of erectile dysfunction must be hand written and shall include a medically accepted indication.
2. An ICD-9 diagnosis code must be written on the hard copy of the prescription or attached to the prescription which is signed and dated by the prescriber.
3. Recipient specific diagnosis information from the prescriber via the facsimile is acceptable when signed and dated by the prescriber.
4. Acceptable ICD-9 diagnosis codes for these drugs

include impotence of non-organic origin or impotence of organic origin.

5. No reimbursement for therapeutic duplication of drugs, early refills, or duplicate drug therapy within the therapeutic class of drugs used to treat erectile dysfunction is allowed.

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

David W. Hood
Secretary

9806#012

DECLARATION OF EMERGENCY

Department of Revenue
Office of Alcohol and Tobacco Control

Responsible Vendor Program (LAC 55:VII.501-509)

Under the authority of R.S. 26:931 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to adopt LAC 55:VII.501-509, pertaining to the Responsible Vendor Program.

These emergency rules shall be effective on July 1, 1998, and shall remain in effect for 120 days or until adoption of the final rules, whichever occurs first. Failure to adopt these rules on an emergency basis will delay implementation of the Responsible Vendor Program resulting in imminent peril to the public's health and welfare.

Act 1054 of the 1997 Regular Session of the Louisiana Legislature enacted R.S. 26:931 et seq., to establish the Responsible Vendor Program to educate vendors, their employees, and customers about selling, serving, and consuming alcoholic beverages in a responsible manner. These emergency rules establish the program's purpose; define terms; prescribe requirements for responsible vendor certification, server permitting, training provider, and trainer approval, certification, and records' retention; and specify minimum course standards for server training classes.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Chapter 5. Responsible Vendor Program

§501. Purpose

The Responsible Vendor Program is intended to educate vendors and their employees and customers about selling, serving, and consuming beverage alcohol, tobacco, and tobacco products. Chapter 5 relates to the development, establishment, and maintenance of the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:702 (April 1998), amended LR 24:

§503. Definitions

For purposes of this Chapter, the following terms are defined:

Approved Training Provider—an individual, unincorporated association, partnership, or corporation approved by the Program Administrator to provide server training courses.

Commissioner—the commissioner of the state Office of Alcohol and Tobacco Control.

Program Administrator—a committee or board of nine persons that shall develop and administer the Responsible Vendor Program.

Responsible Vendor—any vendor who qualifies and maintains certification in the Responsible Vendor Program.

Responsible Vendor Handbook—the handbook that is developed, published, and distributed by the Program Administrator and approved by the Commissioner.

Server—any employee of a vendor who is authorized to sell or serve beverage alcohol in the normal course of his or her employment or deals with customers who purchase or consume beverage alcohol.

Server Permit—the permit issued to a server upon completion of a server training course and all refresher courses.

Trainer—an individual employed or authorized by an approved training provider to conduct an alcohol server education course wherein the successful completion of the course by the student will result in the issuance of a server permit.

Vendor—any holder of a state Class A—General, Class A—Restaurant, or Class B—Retail permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

§505. Vendors

A. Certification and Enrollment as a Responsible Vendor

1. The vendor shall review and understand the vendor handbook.

2. The vendor shall provide the Office of Alcohol and Tobacco Control with a completed "vendor affidavit" for enrollment in the program.

3. The vendor shall require all "servers" to attend an approved server training course within 45 days of the first day of employment.

4. The vendor shall pay an annual fee of $35 per licensed establishment holding a Class A—General, Class A—Restaurant, or Class B—Retail permit for the purpose of funding development and administration of the Responsible Vendor Program.

a. The fee shall be assessed on all new and renewal applications for retail permits to engage in the business of dealing in alcoholic beverages.

b. The fee shall not be assessed to those parties seeking a Special Event Permit under the provisions of R.S. 26:793(A).

B. Maintaining Certification

1. The vendor shall keep the vendor handbook current with all updates and periodic amendments distributed by the Program Administrator.

2. The vendor shall provide new employees already licensed under the Responsible Vendor Program with the rules and regulations applicable in the Parish or Municipality of the establishment's location.

3. The vendor shall maintain server training records, which include the name, date of birth, social security number, and date of hire for all servers. The records shall be kept on the licensed premises at all times for inspection by agents of the Office of Alcohol and Tobacco Control or other peace officers.

4. The vendor shall post signs on the licensed premises informing customers of the vendor's policy against selling alcoholic beverages or tobacco products to underage persons if required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

§507. Servers

A. Server applicants with special needs, such as an inability to read or write in English, hearing impairment, etc., shall contact the approved training provider at least one week before the alcohol server training course to request specific assistance in completing the course. Notwithstanding any other provision of Chapter 5, the training provider and the Program Administrator shall attempt to provide reasonable accommodation when requested in compliance with state and federal law.

B. Server Permit

1. Server permits shall be valid for 2 years from the completion of an approved alcohol training course.

2. Whenever a server is employed in the service of alcohol, their permit and one legal form of picture identification shall be available on the premises for inspection by agents of the Office of Alcohol and Tobacco Control or other peace officers.

3. A server's refusal or failure to make their permit available on the premises for immediate inspection by authorized agents or peace officers shall be evidence of a violation of this section.

C. Server Permit Verification. The Office of Alcohol and Tobacco Control shall maintain a list of currently certified servers by name, permit number, and date of birth, so that vendors can verify the validity of the servers' permits.

D. Permit Expiration, Renewal, and Lost Permits

1. Every server permit shall expire on the last day of the month, 2 years after the month that the server successfully completed the alcohol server education course.

2. To be eligible for renewal of a server permit, the server shall again attend and successfully pass an alcohol server's education course and examination given by an approved training provider.

3. Lost permits shall be canceled and a replacement issued by the Office of Alcohol and Tobacco Control after the server submits an affidavit of lost permit and a $5 fee.

E. Illegal Possession of a Permit. Any person who falsifies, keeps, or possesses a server permit contrary to the provisions of this Chapter shall be guilty of a violation of this Chapter.

F. Server Liability; Penalties, Fines, Suspension, or Revocation of Server Permit. Notwithstanding any criminal actions taken, the Commissioner may issue administrative violation notices to any holder of a server permit for noncompliance with this Chapter or for any violation, attributable to the server, of Title 26 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

§509. Training; Providers and Trainers

A. Trainer Certification. Approved providers shall only contract with trainers that have any combination of a minimum of two years of:

1. verified full-time employment in the fields of training, education, law, law enforcement, substance abuse rehabilitation, the hospitality or retail industry that involved the sale or service of alcohol; or

2. post-secondary education in the fields of training, education, law, law enforcement, substance abuse rehabilitation, or the hospitality or retail industry that involved the sale or service of alcohol.

B. Training Provider Certification

1. A person or business entity that applies to become an approved training provider for alcohol server education shall submit the following to the Program Administrator:

a. a completed application form provided by the Program Administrator;

b. a copy of the lesson plans, audio, visual, and printed materials provided as part of the alcohol server training course;

c. a copy of the examinations;

d. the names, dates of birth, social security numbers, addresses and phone numbers, and educational and employment backgrounds of all trainers to be used in teaching the course; and

e. notification of any changes within 30 days of hiring, contracting with, or termination of any trainers.

2. After the program content or method of presentation has been approved by the Program Administrator, the training provider shall notify and obtain approval of any changes from the Program Administrator.

C. The alcohol server permits issued by the Program Providers to students who successfully complete the server training programs shall be obtained from the Office of Alcohol and Tobacco Control.

D. Denial or Recision of Program Approval

1. The Program Administrator may deny or rescind approval of any program if any of the following is found:

a. the program does not meet the minimum course standards set out in Chapter 5;

b. the Application for Program Certification is not correct or complete;

c. any trainer has been convicted of a felony or of a misdemeanor related to theft, fraud, or misrepresentation and it has been less than three years since the discharge of the sentence imposed as a result of the conviction; or

d. any trainer has been convicted of operating a vehicle while intoxicated at the time they were employed as a trainer and it has been less than one year since the discharge of

the sentence imposed as a result of the conviction.

2. Within 10 days after receipt of the notice that the program approval has been denied or rescinded, the applicant has the right to request a hearing before the Program Administrator.

3. If the applicant fails to request a hearing, the right to a hearing is waived and the Program Administrator's decision is final.

4. The notice that the program approval has been denied or rescinded shall be served by either certified mail or personal service at the applicant's main office to any adult agent or employee or to its registered agent.

E. Training Provider and Trainer Records—Rights of Inspection

1. Within 10 days of any training course, the training provider shall submit to the Office of Alcohol and Tobacco Control a copy of the server permit forms issued and a report of the server training that includes the following:

a. the name, social security number, permit number, address, telephone number, and date of birth of each student that completed the training course and passed the required examination;

b. the name of the trainer that conducted the course and the trainer's signature and verification that each student listed has successfully completed the approved course on the date indicated and any other facts as the Program Administrator or agents or employees of the Office of Alcohol and Tobacco Control may require.

2. Copies of the examinations and permits shall be kept for two years from the date of issue at the training provider's place of business available for inspection and copying by agents or employees of the Office of Alcohol and Tobacco Control.

3. The training provider shall maintain for two years from the date the class was conducted, the course information, which includes the class location, date, and time; trainer's name; and the student's names, social security number, and permit number. These records shall be maintained at the training provider's place of business available for inspection and copying by agents or employees of the Office of Alcohol and Tobacco Control.

F. Approved Training Provider Minimum Course Standards

1. To be certified to issue a server permit, the provider's course of instruction shall include the subject areas enumerated in R.S. 26:933(C), as well as the following:

a. introduction:

i. brief review of the law creating the Louisiana Responsible Vendor Program, which shall include when the program was enacted, who is required to participate and how, when it becomes mandatory, nature of permits issued to server, when server permits expire, obligation of server to attend a course every two years, and server renewal procedures;

ii. objectives of the Responsible Vendor Program, which shall include education of vendors, servers, and their customers about responsible sales, service, and consumption of alcohol and tobacco; and prevention of the misuse, illegal use, and abuse of alcohol;

b. classification of alcohol as a depressant and its effect on the human body, particularly on the ability to drive a motor vehicle:

i. alcohol is a depressant not a stimulant;

ii. how alcohol travels through the body, including how quickly it enters the bloodstream and reaches the brain;

iii. alcohol's effect on a person's ability to drive a motor vehicle, specifically reviewing alcohol's effect on a person's behavior, self-control, and judgment;

iv. outline of Louisiana's driving while intoxicated laws and penalties for violations;

c. effects of alcohol when taken with commonly used prescription and nonprescription drugs:

i. mixing alcohol with other drugs can produce dangerous side effects. It is especially dangerous to drive under the influence of alcohol and other drugs because of the increased impairment due to both;

ii. alcohol and other depressant drugs. Mixing alcohol with other depressants dangerously increases the depressant effect on the body;

iii. alcohol and stimulants. Stimulants do not cancel the intoxication and impairment due to alcohol;

iv. alone, many prescription and nonprescription drugs impair the ability to drive a motor vehicle;

v. the effects of commonly used prescription and nonprescription drugs;

vi. review of the effects of contemporary designer drugs such as GHB and Rohypnol;

d. absorption rate, as well as the rate at which the human body can dispose of alcohol and how food affects the absorption rate:

i. rate at which the human body absorbs alcohol;

ii. blood alcohol concentration (BAC) and how to estimate a person's BAC. Include drink equivalency guidelines;

iii. how the human body disposes of alcohol;

iv. the effect of food on the absorption rate;

v. time is the only real factor that reduces intoxication;

e. methods of identifying and dealing with underage and intoxicated persons, including strategies for delaying and denying sales and service to intoxicated and underage persons:

i. procedures and methods for detecting false identification;

ii. procedures and methods for denying service or entry to underage persons;

iii. procedures and methods for identifying intoxicated persons including behavioral warning signs and other signs of impairment;

iv. procedures and methods for preventing over intoxication;

v. procedures and methods for terminating service to intoxicated persons;

f. state laws and regulations regarding the sales and service of alcoholic beverages for consumption on or off premises:

i. legal forms of identification in Louisiana;

ii. legal age to purchase, possess, and consume

alcohol and penalties for violation;

iii. legal age to enter licensed premises and penalties for violation;

iv. legal age to be employed by a vendor and penalties for violation;

v. acts prohibited on licensed premises and penalties for violation;

g. parish and municipal ordinances and regulations that affect the sale and service of alcoholic beverages for consumption on or off the licensed premises. These provisions will depend on the jurisdiction of the servers attending the class and may vary according to the parish and municipality:

i. legal hours of operation and Sunday sales;

ii. noise, litter, and zoning;

iii. leaving premises with alcohol;

iv. preemption of parish and municipal server training courses;

v. parish or municipal server licensing requirements;

vi. other relevant regulations;

h. state and federal laws and regulations related to the lawful age to purchase tobacco products and age verification requirements:

i. state and federal legal purchasing age;

ii. federal age verification requirements;

iii. state and federal laws and regulations related to vending machines;

iv. state laws related to sign posting requirements;

v. state laws related to minimum packaging requirements.

2. Each approved server training course shall include at least two hours of classroom instruction, exclusive of breaks and examination time, and shall be presented in a continuous block of instruction. Classes shall be limited to no more than one 10-minute break per hour.

3. The approved server training course shall be presented in its entirety to each student in a language approved by the Program Administrator.

4. Each server training course must include an examination approved by the Program Administrator, which is administered by the trainer immediately following the course presentation. Students shall take the examination in writing, unless special circumstances require an oral examination. With the approval of the Program Administrator, the test may be offered in a language best understood by the student, or bilingual trainers may, in response to direct inquiries, clarify test questions using another language. Each student shall correctly answer at least 70 percent of the examination questions. Students who receive failing scores may be retested once at a time and place to be determined by the trainer. Otherwise, students must repeat the full course for an additional fee.

5. All training facilities shall meet the requirements of the Americans with Disabilities Act (ADA) and shall have adequate lighting, seating, easily accessible restrooms, and comfortable room temperature.

6. At the beginning of each server training course, the trainer shall give each student:

a. an enrollment agreement that clearly states the obligations of the trainer and student, refund policies, and procedures to terminate enrollment;

b. a notice that a student must complete the course in order to take the examination;

c. a server training workbook, approved by the Program Administrator, that is current, complete, and accurate. The workbook shall include an outline of the minimum course curriculum, table of contents, titles, subheadings, and page numbers. Physical specifications must meet the following minimum standards:

i. minimum dimensions of paper size must by 8½ by 11 inches;

ii. paper stock, excluding front and back cover, shall be white or near white, and of a quality and weight suitable for reproduction and note-taking with no ink bleed through;

iii. type must be a minimum of 11-point in a type style commonly used for textbooks and periodicals;

iv. binding must firmly hold the pages together in correct order and be sufficient for use during the course and as a reference;

v. professional printing and typesetting are not required, but reproductions must be clear, readable, and letter quality;

vi. for ease of reading and adequate room for note-taking, white space must be a minimum of 30 percent per page with the print or copy to be no more than 70 percent of the page.

7. No server training class shall include more than 100 students and students that arrive more than 15 minutes after the class begins shall not be admitted.

8. The classroom presentation must be consistent with the approved program.

9. Discussions must be pertinent to responsible beverage alcohol or tobacco sales, service, and consumption.

10. The Program Administrator or their designee may attend any class to evaluate conformance with the program certified by the Program Administrator.

11. At least seven days in advance, the training provider or their authorized trainers shall give written notice to the Office of Alcohol and Tobacco Control of the date, time, and location of all courses scheduled. The Office of Alcohol and Tobacco Control shall be notified by phone or fax of course cancellations prior to the course date except when cancellation cannot be anticipated, in which case notification shall be within three business days of the scheduled course date.

G. Approved Server Training Course Fees. Approved providers may charge fees for the cost of conducting the approved server training courses. The fees shall be approved by the Program Administrator and the Commissioner and may not exceed $25.

H. Sanctions Against Approved Training Providers and Trainers. Any approved training provider or trainer who violates any of the provisions of Title 26 of the Louisiana Revised Statutes or any of the requirements of Chapter 5 shall:

1. for a first offense receive a notice of intended suspension or revocation of the Program Administrator's certification or authorization, with 30 days allowed to correct

any violations. If the violation is rectified no further action will be taken;

2. if the violation is not rectified or a second violation by the training provider or their trainer occurs, the Program Administrator or their designee shall suspend approval and certification of the training provider or trainer for a period not to exceed six months. Before the suspension will be lifted, the training provider or trainer shall correct all violations;

3. the Program Administrator or their designee may increase sanctions based on successive violations within a two-year period. Numerous violations within a two-year period may indicate disregard for the law or failure to provide an acceptable alcohol server education program so as to warrant cancellation of the certification of either the training provider or their trainer;

I. Approved Training Provider Responsible for Acts of Trainers. The Program Administrator may hold a training provider responsible for any act or omission of the training provider's program, personnel, trainers, or representatives that violate any law or administrative rule pertaining to approved training providers' privileges.

J. Prohibited Conduct. No approved training provider or authorized trainer shall:

1. make any false or misleading statement to induce or prevent the Program Administrator's actions;

2. falsify, alter, or otherwise tamper with alcohol server permits or records;

3. permit a student to refer to any written material or have a discussion with another person during the exam unless the instructor authorizes the student to use an interpreter;

4. permit any student to drink alcoholic beverages or to be under the influence of intoxicants during the course presentation or examination, including breaks;

5. drink alcoholic beverages or be under the influence of intoxicants during the course presentation or examination, including breaks;

6. prohibit, interfere, or fail to assist the Program Administrator or their designee with scheduling or attendance of on-site observations.

K. Approved Training Provider and Trainer Advertising and Promotion Standards

1. Approved training provider and trainer advertising related to the alcohol server training courses shall include:

a. the approved provider's or trainer's telephone number and cancellation policy;

b. the total amount of course time that includes instruction, examination and breaks;

c. a statement that students shall attend the entire course before taking the examination.

2. Advertising shall not suggest that the state of Louisiana, the Program Administrator, or any state agency endorses or recommends the approved provider's program to the exclusion of any other program.

3. Upon request, the training provider or trainer shall give the Program Administrator copies of program publications, brochures, pamphlets, scripts, etc. or any other representation of advertising materials related to the program.

4. An approved training provider or trainer must have records available to support all advertising claims or representations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

Murphy J. Painter
Commissioner

9806#029

DECLARATION OF EMERGENCY

Department of the Treasury
Board of Trustees of the State Employees Group Benefits Program

Plan Document—Cancer Screening and Detection

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

This rule shall become effective on July 1, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

The Board finds that it is necessary to amend the Plan Document to implement the provisions of Act Number 1439 of the 1997 Regular Session of the Louisiana Legislature (R.S. 22:215.11), regarding benefits for mammography, Pap tests, and prostate examination and testing. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section I, Subsection F, Paragraph 29, to read as follows:

F. Eligible Expenses

The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule and the Schedule of Benefits, under the Comprehensive Medical Benefits when prescribed by a Physician and Medically Necessary for the Treatment of a Covered Person:

* * *

29. Not subject to the annual deductible, one Pap test for cervical cancer per calendar year and screening mammographic examinations performed according to the following schedule:

a. One baseline mammogram during the five-year period a person is 35-39 years of age;

b. One mammogram every two calendar years for any person who is 40-49, or more frequently if recommended by a physician;

c. One mammogram every twelve months for any person who is 50 years of age or older;

* * *

Amend Article 3, Section I, Subsection F, by adding a new Paragraph, designated as Paragraph 37, to read as follows:

* * *

37. Not subject to the annual deductible, testing for detection of prostate cancer, including digital rectal examination and prostate-specific antigen testing, once every twelve months for men over the age of fifty years, and as medically necessary for men over the age of forty years;

* * *

Ann B. Davenport
Deputy Director

9806#024

DECLARATION OF EMERGENCY

Department of the Treasury
Board of Trustees of the State Employees Group Benefits Program

Plan Document—Impotency Drugs

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

This rule shall become effective on June 1, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

The Board finds that it is necessary to amend the Plan Document to limit benefits for drugs prescribed for treatment of impotency. Failure to adopt this amendment on an emergency basis will result in a financial impact which will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section VIII, of the Plan Document by adding thereto a new subsection, designated as subsection PP, to read as follows:

VIII. Exceptions And Exclusions For All Medical Benefits

No benefits are provided under this contract for:

* * *

PP. Drugs prescribed for Treatment of impotence, except when prescribed for males over the age of thirty, in a quantity not greater than five (5) per month, and provided that no benefits are payable for Yohimbine oral tablets, Papaverine and Phentolamine self-injectables, or any other drugs prescribed or dispensed for Treatment of impotence unless such Treatment is indicated in the approval of the drug by the Food and Drug Administration;

* * *

Ann B. Davenport
Deputy Director

9806#025

Rules

RULE

Department of Agriculture and Forestry
Forestry Commission
and
Department of Revenue
Tax Commission

1998 Timber Stumpage Values
(LAC 7:XXXIX.101)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Forestry Commission, and the Department of Revenue and Taxation, Tax Commission adopt rules regarding the value of timber stumpage for calendar year 1998. These rules comply with and are enabled by R.S. 3:3101 et seq.

Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry
Chapter 1. Timber Stumpage
§101. Stumpage Values

The Louisiana Forestry Commission and the Louisiana Tax Commission, as required by R.S. 47:633, determined the following timber stumpage values, based on current average stumpage market values, to be used for severance tax computations for 1998.

Trees and Timber	Price/Scale	Price/Ton
1. Pine Sawtimber	$392.40/MBF	$49.05/ton
2. Hardwood Sawtimber	$207.96/MBF	$21.89/ton
3. Pine Chip and Saw	$89.53/cord	$33.16/ton
Pulpwood		
5. Pine Pulpwood	$25.46/cord	$9.43/ton
6. Hardwood Pulpwood	$15.79/cord	$5.54/ton

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6 (January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), LR 21:1069 (October 1995), amended by the Louisiana Forestry Commission and Louisiana Tax Commission, LR 22:581 (July 1996), LR 23:943 (August 1997), amended by the Department of Agriculture and Forestry, Forestry Commission, and the Department of Revenue, Tax Commission, LR 24:1081 (June 1998).

Billy Weaver, Chairman
Forestry Commission

Malcolm Price, Chairman
Tax Commission

9806#056

RULE

Department of Agriculture and Forestry
Office of Marketing
Market Commission

Sweet Potato Logo
(LAC 7:V.2101-2115)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Marketing, Market Commission adopts regulations for the purpose of advertising, publicizing and promoting the increased production and packaging of Louisiana sweet potatoes in the state of Louisiana through the creation, licensing, and use of a Louisiana sweet potato logo. These rules are enabled by R.S. 3:413 and 415. No preamble concerning the proposed rules is available.

Title 7
AGRICULTURE AND ANIMALS
Part V. Advertising, Marketing and Processing
Chapter 21. Louisiana Sweet Potato Logo
§2101. Statement of Authority and Purpose

The state Market Commission hereby adopts LAC 7:V.Chapter 21 under the authority of R.S. 3:415 for the purpose of advertising, publicizing and promoting the increased production and packaging of Louisiana sweet potatoes, in the state of Louisiana, through the creation, licensing and use of a Louisiana sweet potato logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1081 (June 1998).

§2103. Definitions

The terms defined in this Section have the meaning given to them herein, for purposes of LAC 7:V.Chapter 21, except where the context expressly indicates otherwise.

Commission—the Louisiana State Market Commission.

Commissioner—commissioner of the Louisiana Department of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Farm—any area of land used to grow and package Louisiana sweet potatoes.

Louisiana Sweet Potato—any sweet potato grown and packaged in the state of Louisiana.

Louisiana Sweet Potato Logo—a distinctive mark, motto, device, symbol or emblem which may be affixed to Louisiana sweet potatoes or the shipping crates, boxes or other packaging containing the Louisiana sweet potatoes so that Louisiana sweet potatoes may be identified as such in the market, and their origin vouched for.

Person—any individual, corporation, partnership, association or other legal entity.

Producer—any person who grows or packs Louisiana sweet potatoes.

Promote—includes the use of the Louisiana sweet potato logo on packages, documents, promotional materials and business correspondence to further enhance the marketability of Louisiana sweet potatoes.

Stop Order—a written, printed or stamped order issued by the department preventing a person from shipping or selling sweet potatoes under the Louisiana sweet potato logo or removing them from the premises where they are found in crates, boxes or other packaging marked with the Louisiana sweet potato logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1081 (June 1998).

§2105. Development, Adoption and Registration of an Official Logo for Louisiana Sweet Potatoes

A. The commission may develop and adopt a Louisiana sweet potato logo to be placed on boxes, crates, or other packages to certify that the sweet potatoes in the boxes, crates or other packages are Louisiana sweet potatoes.

B. Upon adoption of a Louisiana sweet potato logo the commission may register the logo as a trademark or a certification mark with the state of Louisiana, U.S. Government or any other governmental or private entity where necessary or proper to protect the logo's status as a trademark or as a certification mark.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

§2107. Licensing Eligibility for Use of Logo

A. The commission may license a producer to use the Louisiana sweet potato logo if the producer meets the following requirements:

1. the producer makes written application to the commission for a license, on a form provided by the department;

2. the producer pays the license fee;

3. the producer agrees in writing to abide by LAC 7:V.Chapter 21 regarding the use of the Louisiana sweet potato logo;

4. the producer agrees in writing to apply the Louisiana sweet potato logo only on crates, cartons or other forms of packaging containing sweet potatoes grown and packed entirely in the state of Louisiana.

B. No sweet potatoes grown in any other state shall qualify for packing and shipping under the Louisiana sweet potato logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

§2109. Use and Transferability of Logo

A. The Louisiana sweet potato logo shall be reserved for the exclusive use of the department in promoting, advertising and marketing Louisiana sweet potatoes and for each producer licensed to use the logo.

B. The Louisiana sweet potato logo shall not be placed on any box, crate or other package containing sweet potatoes unless the box, crate or other package contains only Louisiana sweet potatoes.

C. No producer licensed to use the Louisiana sweet potato logo shall sell, assign or transfer the use of the Louisiana sweet potato logo to any other person without the specific written permission of the commission.

D. No person shall use the Louisiana sweet potato logo for any purpose unless that person is authorized in writing by the commission to do so or unless that person is a producer licensed by the commission to use the logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

§2111. Fees and Costs

A. Each producer applying for and receiving an initial license to use the logo shall pay a fee of $25 before being licensed.

B. Each producer, thereafter, shall pay an annual renewal fee of $25 on or before June 30 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

§2113. Enforcement

A. The department or its authorized representative shall have the right to enter any Louisiana sweet potato farm and any packaging plant to inspect that facility and any records pertaining to the growing, packaging or sale of any Louisiana sweet potato by any producer licensed under LAC 7:V.Chapter 21.

B. The department or its authorized representative may, while enforcing the provisions of LAC 7:V.Chapter 21, issue and enforce a written, printed or stamped stop order to prevent the use of the Louisiana sweet potato logo on any sweet potatoes to be sold, shipped or removed from the premises where they are found if:

1. the authorized representative of the department has been refused the right to enter the premises where the sweet potatoes are being grown and packaged;

2. the sweet potatoes do not meet the department's inspection and grading standards;

3. the licensed sweet potato producer is in violation of LAC 7:V.Chapter 21;

4. the sweet potatoes in any box, crate or package carrying the Louisiana sweet potato logo are not entirely Louisiana sweet potatoes; or

5. any person is found to be using the Louisiana sweet potato logo either without being a licensed producer or without written authorization from the commission to use the logo.

C. Upon issuance of a stop order the department may:

1. order that the sweet potatoes may not be sold, shipped or removed from the premises at the time the stop order is issued; or

2. prohibit the use of the Louisiana sweet potato logo on any sweet potato subject to the stop order, or on any crate, box or package containing such sweet potatoes when the sweet potatoes are sold, shipped or moved from the premises.

D. The stop order may be released by the department when:

1. proof of compliance with LAC 7:V.Chapter 21 is furnished to the department if the stop order was issued because of a violation of LAC 7:V.Chapter 21;

2. the authorized representative of the department has been allowed to enter the premises where the sweet potatoes are grown or packaged and inspect those sweet potatoes or the records if the stop order was issued based on refusal to allow entry or inspection;

3. the department determines that circumstances warrant the release of the stop order, upon such terms and conditions that the department deems necessary or proper.

E. Any person aggrieved by the issuance of a stop order by the department may request an administrative adjudicatory hearing to contest the validity of the stop order by making a written request, within five calendar days, to the department for such a hearing. Within 10 calendar days after the department receives the written request an administrative adjudicatory hearing shall be held by the department in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

§2115. Penalty for Violations; Injunctive Relief; Costs; Notification

A. Whoever violates the use of the Louisiana sweet potato logo adopted pursuant to R.S. 3:415 or LAC 7:V.Chapter 21 may be fined not less than $25 nor more than $500 for each violation or may have his license to use the Louisiana sweet potato logo suspended, revoked or placed on probation or both.

B. Each violation of LAC 7:V.Chapter 21, any stop order or other orders issued by the department or the commission in the enforcement of LAC 7:V.Chapter 21 and every day of a continuing violation shall be considered a separate and distinct violation chargeable under LAC 7:V.Chapter 21.

C. The commission may impose any or all of the penalties stated in §2115.A and B after an adjudicatory hearing held in accordance with the Louisiana Administrative Procedure Act. Any such adjudicatory hearing may be presided over by a hearing officer appointed by the commissioner. The commission may delegate to the Louisiana Sweet Potato Advertising and Development Commission the authority to conduct any such adjudicatory hearing, to make findings of fact and conclusions of law and to impose penalties for any violation.

D. The commission, through the commissioner, may apply for injunctive relief restraining violations of the Louisiana sweet potato logo or violations of LAC 7:V.Chapter 21 or institute necessary actions for failure to pay accounts due the commission. The person condemned in any such proceeding shall be liable for the costs of court and for any additional costs incurred by the department or the commission in gathering the necessary evidence, including reasonable attorney fees and expert witness fees.

E. If any Louisiana sweet potatoes inspected by the department are the subject of a stop order or if any producer's license to use the Louisiana sweet potato logo has been suspended, revoked or placed on probation then notification of such action and the reasons therefore shall be sent, by the department, to any and all appropriate public entities or agencies who may be affected by the stop order or by the suspension, revocation or probation of the producer's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:413 and 415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1083 (June 1998).

Bob Odom
Commissioner

9806#058

RULE

Department of Economic Development
Office of Financial Institutions

Disbursement of Security Monies (LAC 10:XV.503)

In accordance with the authority granted by the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority granted by R.S. 9:3576.1 et seq., the Commissioner of the Office of Financial Institutions adopts a rule to provide for the procedures this office and all affected constituents are to follow upon suit being brought against a surety bond or other security monies; and further to provide for a dissolution procedure to liquidate a forfeited surety bond or other security monies.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC
Part XV. Other Regulated Entities
Chapter 5. Debt Collection Agencies
§ 501. Reserved
§ 503. Disbursement of Security Monies

A. Purpose. The Office of Financial Institutions is presently faced with competing claims by former clients of now defunct collection agencies to the security monies represented by surety bonds or cash monies posted by these licensed

companies and assigned to this office in accordance with R.S. 9:3576.15. This office must promulgate procedures for the discovery and recognition of claims against this security, and for the fair, equitable and expeditious distribution of these funds among all qualified claimants.

B. Definitions

Bar Date—the date after which no new claims may be filed.

Claim—any obligation of a licensed debt collection agency owed to a client for the payment of money arising out of any agreement or contract for the collection of funds owed to the client by a debtor.

Client—any person authorizing or employing a collection agency to collect a debt on their behalf.

Commissioner—the Commissioner of Financial Institutions.

Concursus—a proceeding similar to that which is set forth in the *Louisiana Code of Civil Procedure*, LSA-C.C.P. arts. 4651-4662.

Defunct Agency—a debt collection agency that has voluntarily relinquished its license or has had its license terminated, and does not have sufficient funds in its trust account(s) to pay its outstanding claims owed to its clients.

Security Monies—a surety bond or cash monies which are required to be posted by a debt collection agency to ensure the prompt and full payment of claims.

C. Background. R.S. 9:3576.15(A) requires entities licensed as debt collection agencies under the Collection Agency Regulation Act ("CARA") R.S. 9:3576.1, et seq., to post a surety bond in favor of the Office of Financial Institutions ("Office") in the amount of $10,000. R.S. 9:3576.15(C) permits a licensee to deposit cash or other securities with the office in lieu of such bond. R.S. 9:3576.16 permits clients or customers to bring suit against such bond or other security when such parties allege damages through the failure of the licensee to properly remit due and owing funds in accordance with R.S. 9:3576.18. R.S. 9:3576.16(B) requires the Commissioner to maintain a record of all suits commenced under CARA upon a surety bond, cash or other security deposited in lieu thereof.

D. Bar Date. The bar date for filing claims shall be the same as provided for in Rule 3002(c) of the Federal Bankruptcy Rules of Procedure, which shall be 90 days after the post mark date on the notice form. The post mark date on the notice form shall not be included in calculating the 90-day bar date period.

E. Maintenance of Suit Records. The office will file a motion with the appropriate Clerk of Court for the Judicial District wherein the affected debt collection agency is located, requesting that the clerk provide notice of all suits commenced against the surety bond or cash monies which have been posted with the Commissioner in accordance with R.S. 9:3576.16(C), when he has knowledge that a suit may be or has been commenced.

F. Action on a Surety Bond. If the Commissioner receives notice that a client has commenced an action on a surety bond posted as security by the licensee, he may require the debt collection agency to provide notice to each client, as identified on the records of the licensee, of the commencement of said action, and include therein the name and address of the surety company that has issued the surety bond.

G. Procedure to Resolve a Defunct Agency

1. If the licensee has opted to post security in the form of cash, in accordance with the requirements established by the Commissioner, and the licensee has surrendered its license or has had its license terminated, and if the licensee does not have sufficient funds available in its trust account(s) to pay all of its outstanding client claims, the office may avail itself of the following method of resolving competing claims.

2. Such an action may be initiated in the nature of a concursus proceeding; however, the Commissioner may modify the procedures set out in La. C.C.P. Articles 4651-4662 in any manner he deems necessary to accomplish the dissolution and distribution of the cash monies in an equitable and expeditious manner.

3. The following is an illustrative listing of the steps to be followed in providing notice to claimants and to distribute securities monies to all qualified persons having competing claims. The Commissioner may modify this procedure as he deems necessary and appropriate to effectuate its purposes.

a. A written notice shall be provided to all clients advising them of the intention of the Office to distribute the cash monies held in actual or constructive possession by the Commissioner.

b. Such notice shall provide the name and address of the office where claims may be filed, and the person to whom such claims should be directed.

c. The notice shall also provide that any and all claims which are either disqualified or which are not timely filed will be barred from participating in the distribution of the cash monies.

d. Along with the notice referred to in §503.G.3, the Commissioner will provide each claimant with a proof of claim form which must be completed in every respect and filed with the Office within the bar period provided in §507. The Commissioner will be required to verify each proof of claim as being valid before accepting them for filing. If a claim cannot be verified, it will be disqualified and will not be eligible to participate in the distribution of the cash monies.

e. Upon the expiration of the bar date, and after each qualified proof of claim has been verified, the Commissioner will compile a list of all persons who are eligible to participate in the distribution of the cash monies and the amount of funds that each person has claimed they are owed.

f. All notices, proof of claim forms, and other required forms shall be as prescribed by the Commissioner.

H. Distribution of the Cash Monies

1. After the office has determined the names of all eligible claimants, the Commissioner shall petition the Nineteenth Judicial District Court for authority to have each claimant recognized as having a valid claim against the cash monies in the possession of the office.

2. To his petition the Commissioner shall attach a proposed method of distribution, setting out the amount he proposes each claimant is due, and seeking Court approval of the method of distribution.

3. The Commissioner may pray in his petition for an order of the Court authorizing payment of the competing

claims in accordance with the method of distribution set out in his petition.

4. The method of distribution of the cash money shall be accomplished in a manner which the Commissioner deems to be reasonable, and which shall assure prompt and expeditious payment to the claimants and is calculated to minimize the expenses associated with the distribution of funds.

5. After the distribution of funds has been completed, the Commissioner shall seek an order of the Court to be released from any further liability for the distribution of funds.

6. The Commissioner may also pray for any other relief, both legal and/or equitable, that he deems necessary and appropriate to effectuate the purposes of LAC 10:XV.503.

I. Severability. If any section, term, or provision of any of LAC 10:XV.503 is, for any reason, declared or adjudged to be invalid, such invalidity shall not affect, impair, or invalidate any of the remaining rules, or any term or provision thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3576.16(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 24:1083 (June 1998).

Larry L. Murray
Commissioner

9806#044

RULE

Board of Elementary and Secondary Education

Bulletin 741—Course Credit
for Private Music Lessons

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 741, Credit for Strings Lessons.

2.105.24 Approval by the State Department of Education shall be granted before private piano and strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:1085 (June 1998).

Weegie Peabody
Executive Director

9806#052

RULE

Board of Elementary and Secondary Education

Bulletin 741—Nonpublic Schools

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 741, Louisiana Handbook for School Administrators, Nonpublic. The majority of the changes are for clarity and flexibility, and are editorial in nature. A complete text of the changes is as follows:

Operation and Administration

General Authority

6.001.02 Nonpublic schools are designed to meet the needs of a specific group of students. Each nonpublic school will evaluate itself on the basis of its stated goals and objectives.

Philosophy and Purposes of School

6.003.00 Each nonpublic school shall develop and maintain a written statement of its philosophy and/or mission statement and the major purposes to be served by its program. The statement shall reflect the individual character of the school and the characteristics and needs of the students it serves.

6.003.02 The statement of philosophy shall be reviewed annually and shall be revised as necessary.

6.003.04 Copies of the philosophy and/or mission statement shall be furnished to all staff members and made available to interested persons on request.

6.003.06 Each school shall maintain, on file, the following:

a) written statement of philosophy and/or mission statement;

b) goals and objectives for the current year; and

c) plan for implementation of these goals and objectives.

School Approval

6.006.01 Each state-approved nonpublic school receiving state and/or federal funds shall permit all colleges and universities to have equal access to the schools for the purpose of college recruitment.

6.006.02 When applying to the State Department of Education for a classification category, all nonpublic schools seeking state approval shall include all grades/programs taught at the school.

Classification Categories

Schools shall be classified according to the following categories:

Approved (A). School meets all standards specified in Standards for Approval of Nonpublic Schools.

Provisionally Approved (PA). School has some deficiencies in standards, such as: library books below the required number per pupil; class size; curriculum do not meet prescribed requirements; and number(s) of the faculty teaching in an area for which qualifications specified are not met, etc.

Probationally Approved (P). School has one or more of the following deviations from standards:

(a) principal does not hold a master's degree or principalship certification;

(b) nondegreed teacher with fewer than five years' teaching experience is employed;

(c) school has been on provisional approval for the previous two years for the same deficiency.

Unapproved (U). School maintains any of the above-mentioned deviations from standards which placed it in the probationally approved category the preceding year. A school may not maintain a probationally approved category for two consecutive years.

Each nonpublic school shall submit an Annual School Report to the appropriate bureau (Elementary or Secondary

Education) according to the established time line.

The State Department of Education (Bureaus of Elementary and Secondary Education) shall analyze each nonpublic school's annual school report according to the Standards of Approval of Nonpublic Schools approved by the SBESE.

The Department of Education shall submit to the SBESE a yearly report recommending the classification status of the nonpublic schools in accordance with the nonpublic school standards.

After the annual school reports are submitted by the State Department of Education to the State Board of Elementary and Secondary Education (SBESE) for approval classification, all nonpublic schools seeking to change their classification category must submit their request to the SBESE.

6.006.04 Re-Applying for State Approval

An unapproved school reapplying for state approval must qualify as either approved or provisionally approved.

6.009.04 Pre-Kindergarten/Kindergarten

The local educational governing authority shall have the option of establishing a pre-kindergarten and/or kindergarten program on a half-day or full-day schedule.

The pre-kindergarten program shall be listed on the Annual School Report when operated as a developmental program within the total school program.

Any other program which operates in a school as a child care program, shall follow the standards as prescribed by the Department of Health and Hospitals (DHH) and is not to be listed on the Annual School Report.

6.009.16 Minimum Session/Instructional Day

Each school shall adopt a calendar for a minimum session of 180 days, of which at least 175 days shall be scheduled to provide the required instructional time.

Effective with the 1995-96 school year, the length of the school year shall consist of 180 days of which no less than 175 days shall be student contact teaching days, or the equivalent; the remaining five days may be used for emergencies and/or other instructional activities.

Two or more partial days may be combined to meet the minimal school year requirement of 175 days of 330 minutes of instructional time.

The class schedule must be abbreviated in order to ensure that all classes are taught during partial days.

Each school may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time.

Written Policies

6.010.00 Each school shall have written policies and/or regulations governing the general operation of the school.

Emergency Planning and Procedures

6.011.00 Each school shall have written plans and procedures that address the immediate response to emergency situations that may develop in the school.

Certification of Personnel

Instructional Staff

6.016.15 All members of the instructional staff teaching secular subjects, pre-kindergarten through 12, shall have received a bachelor's degree from a regionally-accredited institution.

They shall also have completed a minimum of 12 semester hours of professional education courses. A beginning teacher shall have a two-year period in which to meet this 12-semester-hour standard. The teacher shall be required to have a certificate or college major in the field of work for which the teacher is responsible during one-half or more of the school day or shall have earned credits in the required specific specialized academic courses as described in Bulletin 746, Louisiana Standards for State Certification of School Personnel. A teacher may work in areas other than the major field for a period of time that is less than one-half of the school day provided that he has earned at least 12 semester hours in each such area. (Exception may be made for teachers in Trade and Industrial Education classes.)

Teachers of the pre-kindergarten class shall be qualified in either elementary, kindergarten, or nursery school or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Home Economics.

Teachers of the kindergarten class shall be qualified in either elementary or kindergarten or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Home Economics.

Staff members teaching Religion at the high school level (9-12) for Carnegie units must have a minimum of a bachelor's degree. Staff members teaching Religion who do not meet minimum qualifications may be employed in a nonpublic school provided they were employed during the 1995-96 school year as teachers of Religion.

Records and Reports

Maintenance and Use of School Records and Reports

6.026.00 Each school shall maintain necessary records for the effective operation of the school. These records shall be retained by the school for not less than three years.

Transfer of Student Records from Schools That Are Not State-Approved

6.026.08 Local school principals from any state-approved school receiving a student from an unapproved school, in- or out-of-state, will determine the placement and/or credits for the student. The principal and/or superintendent may require the student to take an entrance examination on any subject matter for which credit is claimed. The school issuing the high school diploma shall account for all credit required for graduation, and its records will show when and where the credit was earned.

Students Transferring from Home Study

6.026.09 The school shall adhere to the policies and procedures established by the school/system for students entering or reentering the school/system from an approved home study program.

Students Transferring from Foreign Schools

6.026.10 The school shall determine placement of students transferring from foreign schools. This determination shall be accepted by the State Department of Education (SDE).

6.026.11 Credits earned by students in American schools in foreign countries shall be accepted at face value.

Textbook Records

6.026.13 State funds allocated for buying textbooks shall be

used to buy books on the state-adopted textbook lists and academically related ancillary materials according to the state guidelines.

Waivers: Local schools may use state textbook dollars for the purchase of nonadopted instructional materials when:

(1) they are purchasing instructional materials for grades K-3 that are manipulative concrete materials, or gross motor materials;

(2) they do not exceed 10 percent of the total state textbook allocation; and

(3) schools may petition in writing the State Department of Education for permission to spend in excess of the 10 percent allowance.

Health Records

6.026.15 A health record shall be maintained on each student from pre-kindergarten through grade 12.

School Reports

Annual Financial and Statistical Report

6.027.02 Information required for the completion of the Annual Financial and Statistical Report shall be recorded on forms furnished by the State Department of Education.

A complete form shall be sent to each nonpublic school principal by the State Department of Education. A copy of this report shall be filed in the principal's office and a copy forwarded to the Bureau of School Accountability in the State Department of Education.

Scheduling

Secondary Scheduling

6.037.09 The minimum length of periods for any high school class in which a Carnegie unit is earned shall be no less than 55 minutes of instructional time in a six-period day and no less than 50 minutes of time in a seven-period day.

The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of class periods per week provided that the yearly aggregate time requirements are met.

9,625 minutes (six-period day)

8,750 minutes (seven-period day)

The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of class periods per week, provided that the aggregate time requirements are met. Significant modifications may be made for special education students in accordance with the Individualized Education Program (IEP) provided that the integrity of the Carnegie unit is not diminished.

Student Services

Age Requirements

6.055.19 The minimum age for kindergarten shall be one year younger than the age requirement for that child to enter first grade.

Each school may adopt by rule and enforce ages for entrance into first grade in the school.

Health Services and Screening

Immunization

6.056.04 The school principal of each school shall be responsible for checking student records to ensure that immunization requirements are enforced. (Refer to R.S. 17:170.)

6.056.05 After parental notification that a student's immunization schedule is not up-to-date, the student shall be excluded from school until evidence has been presented that the required immunization program is in progress or unless R.S. 17:170(E) is invoked. (Refer to R.S. 17:170.)

Curriculum and Instruction

Elementary Schools

6.090.05 The following elementary program of studies will be followed for nonpublic elementary schools:

Program of Studies

For Nonpublic Elementary Schools
(Grades 1-6)

Subject	Percent of School Day
Reading Language Arts Mathematics	50 Percent (Minimum)
Social Studies Fine Arts Science Physical Education/Health Religion and/or Electives	50 Percent (Maximum)

An articulated elementary foreign language program is recommended for academically-able students and optional for all others.

The above minimum time requirements shall apply to all students performing at or above grade levels in Language Arts and Mathematics. Subject to review and approval of the principal, teachers may vary the daily schedule for the various subject time requirements as long as the weekly aggregate of time for each subject is in accordance with the above.

For students performing below grade level in Language Arts or Mathematics, teachers may increase the daily/weekly time in Language Arts or Mathematics by reducing instructional time in other subjects.

Grades 7 and 8
(Six-Period Day Option)

	Periods per Week	Minimum Time
Language Arts	5	55
Mathematics and Introduction to Algebra	5	55
Social Studies (Louisiana Studies and American History)	5	55
Science	5	55
Health and Physical Education; or Health and Physical Education and Electives	10	110
		330 minutes per day

Grades 7 and 8
(Seven-Period Day Option)

	Periods per Week	Minimum Time
Language Arts	5	50

Mathematics and Introduction to Algebra	5	50
Social Studies (Louisiana Studies and American History)	5	50
Science	5	50
Health and Physical Education and Electives	15	150
		350 minutes per day

Grade 6 may adhere to the six-period or seven-period options only in organizational patterns which include grades 7 and 8.

The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of minutes per week, provided that the yearly aggregate time requirements are met.

9,625 minutes (six-period day all subjects except Language Arts)
19,250 minutes (six-period day Language Arts)

8,750 minutes (seven-period day all subjects except Language Arts)
17,500 minutes (seven-period day Language Arts)

Grades 7 and 8 (including grade 6 when grouped with grades 7 and 8) may offer electives from the following:

Reading;
Exploratory Agriculture;
Industrial Arts;
Construction;
Manufacturing;
Communication;
Transportation;
Industry (sixth);
Exploratory Homemaking;
Art;
Foreign Languages;
Instrumental or Vocal Music;
Typing/Keyboarding;
Speech;
Computer Literacy/Computer Science.

In Industrial Arts, the minimum time for any cluster is six weeks. Maximum time allowed in a cluster is 36 weeks. All areas in each cluster should be taught.

Choice of electives may be alternated during the year and/or semester. Additional electives may be offered with the approval of the State Department of Education.

For a six-period day option:

1. electives may be offered on alternate days with Health and Physical Education for the entire year, provided an equal number of days is given to each subject;

2. electives may be offered five periods per week, for one semester; and Health and Physical Education for five periods per week, for one semester.

Secondary Schools

6.099.01 The 23 units required for graduation shall include 15 required units and eight elective units.

Minimum Requirements for High School Graduation

English—shall be English I, II, and III in consecutive order; and English IV or Business English.	4 units
Mathematics (Effective for 1998-99 incoming freshmen and thereafter.) Shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics. (Effective for incoming freshmen prior to 1998-99.) Shall be Algebra I and one of the following options: (1) Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year), or (2) Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year) and one of the following: Advanced Mathematics, Calculus, Consumer Mathematics, Business Mathematics, or Integrated Algebra/Geometry.	3 units
Science—shall be Biology and two of the following: General Science or Physical Science (but not both), Earth Science, Chemistry, Chemistry II, Physics, Physics II, Aerospace Science, Environmental Science, Physics for Technology, Biology II, or both Vocational Agriculture I and II for one requirement of science.	3 units
Social Studies—shall be American History; Civics or ½ unit of Civics and 1/2 unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization.	3 units
Health and Physical Education—shall be Health and Physical Education I and Health and Physical Education II, or Adapted Physical Education for eligible special education students. Note: The substitution of R.O.T.C. is permissible. A maximum of four units may be used toward graduation.	2 units
Electives	8 units
Total	**23 Units**

The State Board of Elementary and Secondary Education Honors' Curriculum

English English I, II, III, IV (no substitutions)	4 units
Mathematics Algebra I; Algebra II, Geometry; and one additional unit to be selected from Calculus, Trigonometry, or Advanced Mathematics	4 units
Natural Science Biology; Chemistry; and Earth Science or Physics	3 units
Social Studies United States History; World History; and World Geography or Western Civilization	3 units
Free Enterprise	½ unit
Civics	½ unit

Fine Arts Survey Any two units of credit in band, orchestra, choir, dance, art or drama may be substituted for one unit of Fine Arts Survey	1 unit
Foreign Language (in same language)	2 units
Physical Education	2 units
Electives	4 units
Total	**24 units**

The Fine Arts requirement can be met by completing the courses Fine Arts Survey (Art) ½ unit and Fine Arts Survey (Music) ½ unit.

Special Requirements

High School Credit for Elementary Students

6.102.01 An elementary student shall be eligible to receive high school credit in a course listed in the program of studies provided that:

a) the time requirements for the awarding of a Carnegie unit are met;

b) the teacher is qualified at the secondary level in the course taught; and

c) the student has mastered the set standards of the course taken.

The school system may grant credit on either a letter grade or a Pass or Fail (P/F) basis, provided there is consistency systemwide. The course title, year taken, Pass or Fail (P/F) or the letter grade and unit of credit shall be entered on the Certificate of High School Credits (transcript). High School Credit (H.S.C.) must be indicated in the remarks column; or

d) the student has passed the credit examination in the subject taken, mastering the set standards for the course.

Credit shall be granted on a Pass or Fail (P/F) basis only. The course title, year taken, Pass or Fail (P/F), and unit of credit earned shall be entered on the Certificate of High School Credits (transcript). Credit Examination (C.E.) must be indicated in the remarks column.

If a credit examination has not been developed in a subject area, the school may submit an examination developed locally that will test mastery of the performance objectives in the state curricular guides. The testing instrument and the passing score must be approved by the Bureau of Secondary Education, State Department of Education.

Credit or credit examinations may be given in the following subjects: Computer Literacy, Computer Science I-II, English I-IV, Advanced Mathematics, Algebra I-II, Calculus, Geometry, Trigonometry, and Keyboarding. Additionally, credit may be given in all courses listed in the Program of Studies in Foreign Languages, Science, and Social Studies. Exceptions may be made by the Bureau of Secondary Education, State Department of Education upon request of the school principal.

Proficiency Examination

6.102.04 High school credit shall be granted to a student following the student's passing of a Proficiency Examination for the eligible course. Refer to Standards 6.026.09 for students transferring from an approved Home Study Program.

A proficiency examination shall be made available to a student when a school official believes that a student has mastered eligible subject matter and has reached the same or a higher degree of proficiency as that of a student who successfully completed an equivalent course at the regular high school or college level.

The testing instrument and the passing score shall be submitted for approval to the Bureau of Secondary Education, State Department of Education.

The course title, year taken, Pass or Fail (P/F) and unit of credit earned shall be entered on the Certificate of High School Credits (transcript). Minimum Proficiency Standards (M.F.P.) must be indicated in the remarks column.

6.102.05 Students shall not be allowed to take proficiency examinations in courses previously completed in high school or at a level below that which they have completed.

Proficiency examinations may be given in the following subjects: Computer Literacy, Computer Science I-II, English I-IV, Advanced Mathematics, Algebra I-II, Calculus, Geometry, Trigonometry, and Keyboarding. Additionally, credit may be given in all courses listed in the Program of Studies in Foreign Languages, Science and Social Studies. Exceptions may be made by the Bureau of Secondary Education, State Department of Education upon the request of the school principal.

High School Program of Studies

6.105.15 Mathematics. Effective for 1998-99 incoming freshmen and thereafter, three units of Mathematics shall be required for graduation. They shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

For incoming freshmen prior to 1998-99, three units of Mathematics shall be required for graduation. They shall be:

Algebra I and one of the following options: (1) Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year), or (2) Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year) and one of the following: Advanced Mathematics, Calculus, Consumer Mathematics, Business Mathematics, or Integrated Algebra/Geometry. The Mathematics course offerings shall be as follows:

Course Title	Unit(s)
Advanced Mathematics	1
Algebra I	1
Applied Algebra IA	1
Applied Algebra IB	1
Business Mathematics	1
Calculus	1
Consumer Mathematics	1
Geometry	1
Applied Geometry (1996-97 school year)	1

Integrated Algebra/Geometry	1
Trigonometry	½

Business Mathematics may be taught by the Business Education Department.

Students may not earn a unit in both Business Mathematics and Consumer Mathematics.

Teachers selected to teach Applied Algebra IA, Applied Algebra IB, or Applied Geometry shall be provided with the appropriate staff development/in-service.

Science

6.105.20 Three units of Science shall be required for graduation. They shall be Biology and two of the following: General Science or Physical Science (but not both); Earth Science, Chemistry, Chemistry II, Physics, Physics II, Aerospace Science, Environmental Science, Physics for Technology, Biology II, or both Vocational Agriculture I and II for one requirement of science. Science course offerings shall be as follows:

Course Title	Unit(s)
Aerospace Science	1
Biology	1
Biology II	1
Chemistry	1
Chemistry II	1
Earth Science	1
Ecology	1
Environmental Science	1
General Science	1
Physical Science	1
Physics	1
Physics II	1
Physics for Technology	1

Social Studies

6.105.21 Three units of Social Studies shall be required for graduation. They shall be American History; Civics or ½ unit of Civics and ½ unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization. Social Studies course offerings shall be as follows:

Course Title	Unit(s)
American Government	1
American History	1
Anthropology	1
Civics	1
Economics	1
Far East Studies	1
Free Enterprise System	½
Law Studies	1
Modern European History	1
Psychology	1
Sociology	1
Western Civilization	1
World Geography	1
World History	1

Economics may be taught in Business Education.

Free Enterprise shall be taught by teachers qualified in Social Studies, Business Education, or Distributive Education.

Course Credit for Religion

6.105.23 A maximum of four units of credit in Religion shall be allowed to meet graduation requirements.

Course Title	Unit(s)
Religion I, II, III, IV	1 each

A maximum of four units in Religion shall be granted to students transferring from state-approved private and sectarian high schools. Those credits shall be accepted in meeting the requirements for high school graduation.

Home Economics—Consumer and Homemaking Education

6.105.29 Home Economics—Consumer and Homemaking Education course offerings shall be as follows:

Recommended

Course Title	Grade Level	Units
Family and Consumer Sciences	9-10	1
Education I		
Family and Consumer Sciences	10-12	1
Education II		
Adult Responsibilities	11-12	½
Child Development	10-12	½
Clothing and Textiles	10-12	½
Family Economics	10-12	½
Food and Nutrition	10-12	½
Home and Family	11-12	½
Housing	10-12	½
Nutrition Education	10-12	½
Parenthood Education	11-12	½
(Advanced Semester Courses)		
Advanced Child Development	10-12	½
Advanced Clothing and Textiles	10-12	½
Advanced Food and Nutrition	10-12	½
Advanced Nutrition Education	10-12	½

Secondary Students Attending a Postsecondary Technical College

6.105.35 Secondary students attending a postsecondary technical college may receive credit for instruction in any program area offered in the vocational-technical school, if

time requirements for Carnegie units are met and if an equivalent course is not offered by the local school system.

If the course content is equivalent to the content of a vocational education course offering listed under Standards 6.105.24 - 6.105.32, the unit(s) of credit shall be reported on the student's transcript by that title.

If the course content is not equivalent to a course listed under Standards 6.105.24 - 6.105.32, the unit(s) of credit shall be reported by the postsecondary title.

High School Credit for College Courses

(Applies to students attending colleges part time)

6.105.46 The student shall have scored at least a minimum composite score of 25 on the ACT or a minimum of 28 in English or 25 in Mathematics if pursuing those areas or have a SAT composite score of 1050 or have a score of 500 on the verbal portion or 560 on the Mathematics portion of the SAT in the area to be pursued at the college level.

Early College Admissions Policy

(Applies only to high school students attending college full time)

6.108.02 The student shall have earned a minimum composite score of 25 on the ACT or a SAT score of 1050; this score must be submitted to the college.

Summer Schools

Elementary Summer Schools

6.113.14 Time Requirements

Elementary summer schools shall offer a minimum of 70 hours of instruction per subject for removal of deficiencies.

Secondary Summer Schools

The local system may impose a stricter minimum attendance policy.

Instruction by Private Teachers

6.116.18 Credit may be allowed for high school work completed under private instructors, subject to the following conditions:

1. The instruction must be under the direction of a private tutor only when the tutor is eligible for regular employment in an approved nonpublic high school.
2. The time requirements for credits in a regular high school will apply.
3. The necessary facilities peculiar to a particular subject must be available for instructional purposes.
4. Prior to enrolling in a privately tutored course, a student must obtain written approval from the principal of the high school in which he/she is enrolled.

Southern Association of Colleges and Schools member schools should comply with Principle D, Standard 6. (Member schools shall not give credit for private tutoring.)

Approval of Alternative Schools/Programs

6.151.01 Approval shall be obtained from the State Board of Elementary and Secondary Education (SBESE), prior to the establishment of the alternative school/program.

A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (Alternative within Regular Education or Alternative to Regular Education placement);
4. list of the Louisiana Handbook for School Administrators, Bulletin 741 policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class size;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student needs certification;
12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. educational support services;
17. in-service;
18. type and location of physical facility;
19. procedure for program evaluation.

A school choosing to implement an alternative school/program shall submit the above proposal to the director of the appropriate bureau (Elementary Education or Secondary Education, State Department of Education) and the State Board of Elementary and Secondary Education no later than March 1 for approval for the subsequent school year. Refer to guidelines for alternative schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Amended by the State Board of Elementary and Secondary Education, LR 24:1085 (June 1998).

Weegie Peabody
Executive Director

9806#050

RULE

Board of Elementary and Secondary Education

Bulletin 746—Family and Consumer Science Certification

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education changed the name of the certification area of Home Economics to Family and Consumer Sciences. The certification requirements are listed in Bulletin 746, Louisiana Standards for State Certification of School Personnel, and are amended as printed below.

Family and Consumer Sciences* (Vocational)

A minimum of 42 semester hours distributed as follows:

A. Clothing and Textiles—6 semester hours;

B. Consumer Education and Management—6 semester hours;

C. Food and Nutrition—6 semester hours;

D. Housing, Home Furnishings and Equipment—3 semester hours;

E. Human Development and Relationships (including observation and participation in the nursery school)—9 semester hours;

F. Family and Consumer Sciences Electives—12 semester hours.

*Early Childhood Endorsements, see pages 11-13

Mandatory for all individuals applying for certification in Family and Consumer Sciences (Vocational) on or after July 1, 1998.

Family and Consumer Sciences (Occupational Programs)

Authorization to teach Family and Consumer Sciences occupational programs may be added to the certificate of a teacher who is certified in vocational Family and Consumer Sciences and has completed the following:

1. at least 3 semester hours in organization and administration of Family and Consumer Sciences occupational programs including cooperative education; and

2. 2,000 hours of successful work experience or a minimum of 120 hours in supervised field practicum in the area of occupational certification.

Family and Consumer Sciences (Food Science)

Authorization to teach Family and Consumer Sciences food science programs may be added to the certificate of a teacher who is certified in vocational Family and Consumer Sciences provided that the teacher has:

1. at least six semester hours in college chemistry; and
2. at least six semester hours in food science.

Ancillary Family and Consumer Sciences (Occupational Programs)

1. Provisional Certification. Valid for three years and renewable upon request of employing authority, may be issued to a person who has completed the following:

a. bachelor's degree in a subject area of Family and Consumer Sciences;

b. at least 12 semester hours in professional education courses to include organization and administration of Family and Consumer Sciences occupational programs; and

c. 2,000 hours of successful work experience in the area of occupational certification.

2. Permanent Certification. Valid for life for continuous service, may be issued upon completion of the requirements for provisional certification and three years of teaching experience in Family and Consumer Sciences occupational programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:1091 (June 1998).

Weegie Peabody
Executive Director

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RULE

Board of Elementary and Secondary Education

Bulletin 1882—Principal/Assistant Principal Internship

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 1882—Administrative Leadership Academy Guidelines. Bulletin 1882 is referenced in LAC 28:I.920.A.

The amendment defines Newly Appointed Assistant Principals and Newly Appointed Principals. The revision, located on page 11 and 12 of Bulletin 1882 is amended as follows.

Training
Principal Internship

* * *

(See Prior Text)

Newly Appointed Principal

A person appointed to a principalship is considered to be "newly appointed" if at least one of the following conditions apply:

1. first time serving as a principal in a Louisiana public school;

2. prior experience in a Louisiana public school for two or more years as a principal and has been out of the principalship for five or more years; or

3. prior experience in a Louisiana public school for less than two years as a principal and reenters the principalship.

Training
Assistant Principal Internship

* * *

(See Prior Text)

Newly Appointed Assistant Principal

A person appointed to an assistant principalship is considered to be "newly appointed" if a least one of the following conditions apply:

1. first time appointed to an assistant principalship in a Louisiana public school;

2. prior experience in a Louisiana public school, for more than one year as an assistant principal, but has been out of the assistant principalship for five or more years; or

3. prior experience in a Louisiana public school for less than one year and reenters the assistant principalship.

Note: Situations that are not addressed by the above guidelines will be considered by the department on an individual basis. Decisions regarding participation will be based on written information from the superintendent of the respective school system or his/her designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:1092 (June 1998).

Weegie Peabody
Executive Director

9806#054

RULE

Board of Elementary and Secondary Education

School Psychologists' Appeals Council
(LAC 28:I.105 and 107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended the *Louisiana Administrative Code*. The amendment abolishes the School Psychologists' Appeals Council.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 1. Organization
§105. Board Advisory Councils

A. Creation

1. - 8. ...

9. Special Education Advisory Council (R.S. 17:1954);

10. Teacher Certification Advisory Council (R.S. 17:31);

11. Teacher Certification Appeals Council;

12. Textbook and Media Advisory Council (R.S. 17:415.1).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:1093 (June 1998).

§107. Board Appeals Councils

A. ...

B.1. - 2.b.iii. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:1093 (June 1998).

Weegie Peabody
Executive Director

9806#048

RULE

Department of Environmental Quality
Office of the Secretary

Laboratory Accreditation (LAC 33:I.5303)(OS007)

(*Editor's Note:* A portion of the following rule, which appeared on pages 917-933 of the May 20, 1998 *Louisiana Register* is being republished to correct a typographical error.)

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 3. Laboratory Accreditation
Chapter 53. Quality System Requirements
§5303. Equipment and Supplies

A. - G.3.d. ...

H. Equipment used for environmental testing shall meet the following minimums:

1. analytical balances/pan balances:

a. records of balance calibration shall be kept for at least two ranges with a minimum class S or S-1 reference weights or equivalent (weights should be recertified every two years). Records showing daily (or before each use) functional/calibration checks for analytical balances and monthly functional/calibration checks for pan balances shall be maintained;

H.1.b. - H.6.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:926 (May 1998), repromulgated LR 24:1093 (June 1998).

Herman Robinson
Assistant Secretary

9806#026

RULE

Department of Environmental Quality
Office of Waste Services
Hazardous Waste Division

Recodification (LAC 33:V.Subpart 1)(HW063*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste Division Regulations, LAC 33:V.Chapters 1, 3, 5, 11, 15, 19, 21, 22, 23, 25, 27, 29, 30, 35, 38, 39, 40, 41, 43, and 49 (HW063*).

This rule is identical to a federal regulation found in 40 CFR parts 260, 261, 262, 264, 265, 266, 268, 270, and 273, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

Although LAC 33:V.Subpart 1 is currently equivalent to the federal regulations, this rule will update the affected sections to reflect the same order in language as the federal regulations. The basis and rationale for the rule are to make it easier for the regulated community to compare the state and federal regulations.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste
Chapter 1. General Provisions and Definitions
§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A - C.6]

D. Exclusions

1. Materials That Are Not Solid Wastes. The following

materials are not solid wastes for the purpose of this Subpart:

a.i. domestic sewage; and

ii. any mixture of domestic sewage and other wastes that pass through a sewer system to a Publicly Owned Treatment Works (POTW) for treatment. *Domestic sewage* means untreated sanitary wastes that pass through a sewer system;

b. industrial wastewater discharges that are point source discharges subject to regulation under section 402 of the Clean Water Act, as amended;

[Comment: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.]

c. irrigation return flows;

d. source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.;

e. material subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process;

f. pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless they are accumulated speculatively as defined in LAC 33:V.109.Solid Waste;

g. spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in LAC 33:V.109.Solid Waste;

h. secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

i. only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

ii. reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

iii. the secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and

iv. the reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal;

i.i. spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

ii. wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood;

j. EPA Hazardous Waste Numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the Toxicity Characteristic (TC) specified in LAC 33:V.4903.E when, subsequent to generation, these materials are recycled to coke ovens, or to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens, tar recovery, or refining processes, or mixed with coal tar;

k. nonwastewater splash condenser dross residue from the treatment of K061 in high-temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery; and

l. recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous wastes listed in LAC 33:V.4901 (e.g., K048-K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in LAC 33:V.4001.

2. Solid Wastes That Are Not Hazardous Wastes. The following solid wastes are not hazardous wastes:

a. household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel), or reused. "Household waste" means any material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Subpart if such facility:

i. receives and burns only:

(a). household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and

(b). solid waste from commercial or industrial sources that does not contain hazardous waste; and

ii. such facility does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility;

b. solid wastes generated by any of the following and which are returned to the soils as fertilizers:

i. the growing and harvesting of agricultural crops; and

ii. the raising of animals, including animal manures;

c. mining overburden returned to the mine site;

d. fly ash waste, bottom ash waste, slag waste, and

flue gas emission control waste, generated primarily from the combustion of coal or other fossil fuels, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste;

e. drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy;

f. wastes that fail the test for the toxicity characteristic because chromium is present or are listed in LAC 33:V.Chapter 49, due to the presence of chromium, which do not fail the test for the toxicity characteristic for any other constituent, or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or waste generators that:

i. the chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

ii. the waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

iii. the waste is typically and frequently managed in nonoxidizing environments;

g. specific wastes which meet the standard in Subsection D.1.f.i, ii and iii (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:

i. chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling;

ii. chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling;

iii. buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue;

iv. sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/crome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling;

v. wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling;

vi. wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue;

vii. waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and

viii. wastewater treatment sludges from the production of TiO_2 pigment using chromium-bearing ores by the chloride process;

h. solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste. For purposes of this Paragraph, beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting, autoclaving, and/or chlorination in preparation for leaching (except where the roasting and/or autoclaving and/or chlorination/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching. For the purpose of this Paragraph, solid waste from the processing of ores and minerals will include only the following wastes:

i. slag from primary copper processing;

ii. slag from primary lead processing;

iii. red and brown muds from bauxite refining;

iv. phosphogypsum from phosphoric acid production;

v. slag from elemental phosphorus production;

vi. gasifier ash from coal gasification;

vii. process wastewater from coal gasification;

viii. calcium sulfate wastewater treatment plant sludge from primary copper processing;

ix. slag tailings from primary copper processing;

x. fluorogypsum from hydrofluoric acid production;

xi. process wastewater from hydrofluoric acid production;

xii. air pollution control dust/sludge from iron blast furnaces;

xiii. iron blast furnace slag;

xiv. treated residue from roasting/leaching of chrome ore;

xv. process wastewater from primary magnesium processing by the anhydrous process;

xvi. process wastewater from phosphoric acid production;

xvii. basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;

xviii. basic oxygen furnace and open hearth furnace slag from carbon steel production;

xix. chloride process waste solids from titanium tetrachloride production; and

xx. slag from primary zinc processing;

i. cement kiln dust waste, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste;

j. solid waste that consists of discarded arsenical-treated wood or wood products which fails the test

for the toxicity characteristic for Hazardous Waste Codes D004)D017 and which is not a hazardous waste for any other reason, if the waste is generated by persons who utilize the arsenical-treated wood and wood product for these materials' intended end use;

k. petroleum-contaminated media and debris that fail the test for the toxicity characteristic (Hazardous Waste Numbers D018-D043 only) and are subject to the corrective action regulations under underground storage tanks rules and regulations (LAC 33:XI);

l. injected groundwater that is hazardous only because it exhibits the toxicity characteristic (Hazardous Waste Codes D018-D043 only) in LAC 33:V.4903 and that is re-injected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, until January 1, 1993. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:

i. operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed; and

ii. a copy of the written agreement has been submitted to: Characteristics Section (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460;

m. used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use;

n. non-terneplated used oil filters that are not mixed with wastes listed in LAC 33:V.4901 if these oil filters have been gravity hot-drained using one of the following methods:

i. puncturing the filter anti-drain back valve or the filter dome end and hot-draining;

ii. hot-draining and crushing;

iii. dismantling and hot-draining; or

iv. any other equivalent hot-draining method that will remove used oil; and

o. used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

3. Hazardous Wastes That Are Exempted from Certain Regulations. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under LAC 33:V.Subpart 1 or to the notification requirements of Subsection A of this Section, until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

4. Samples

a. Except as provided in Subsection D.4.b of this Section, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of LAC 33:V.Subpart 1 or to the notification requirements of Subsection A of this Section, when:

i. the sample is being transported to a laboratory for the purpose of testing; or

ii. the sample is being transported back to the sample collector after testing; or

iii. the sample is being stored by the sample collector before transport to a laboratory for testing; or

iv. the sample is being stored in a laboratory before testing; or

v. the sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

vi. the sample is being stored temporarily in the laboratory after testing for a specific purpose (e.g., until conclusion of a court case or enforcement action where further testing of the sample may be necessary).

b. In order to qualify for the exemption in Subsection D.4.a.i-ii of this Section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

i. comply with Louisiana Department of Public Safety (LDPS), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

ii. comply with the following requirements if the sample collector determines that LDPS, USPS, or other shipping requirements do not apply to the shipment of the sample:

(a). assure that the following information accompanies the sample:

(i). the sample collector's name, mailing address, and telephone number;

(ii). the laboratory's name, mailing address, and telephone number;

(iii). the quantity of the sample;

(iv). the date of shipment; and

(v). a description of the sample; and

(b). package the sample so that it does not leak, spill, or vaporize from its packaging.

c. This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in Subsection D.4.a of this Section.

5. Treatability Study Samples

a. Except as provided in Subsection D.5.b of this Section, persons who generate or collect samples for the purpose of conducting treatability studies as defined in LAC 33:V.109 are not subject to any requirement of LAC 33:V.Chapters 9, 11, 13, or 49, or to the notification

requirements of Subsection A of this Section, nor are such samples included in the quantity determinations of LAC 33:V.3903-3915 and LAC 33:V.1109.E.7 when:

i. the sample is being collected and prepared for transportation by the generator or sample collector; or

ii. the sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

iii. the sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

b. The exemption in Subsection D.5.a of this Section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies, provided that:

i. the generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute hazardous waste, 1,000 kg of nonacute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream; and

ii. the mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste; and

iii. the sample is packaged so that it will not leak, spill, or vaporize from its packaging during shipment, and the requirements of Subsection 105.D.5.b.iii.(a) or (b) of this Section are met:

(a). the transportation of each sample shipment complies with the shipping requirements of the LDPS and USPS, or any other applicable shipping requirements; or

(b). if the LDPS, the USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(i). the name, mailing address, and telephone number of the originator of the sample;

(ii). the name, address, and telephone number of the facility that will perform the treatability study;

(iii). the quantity of the sample;

(iv). the date of shipment; and

(v). a description of the sample, including its EPA Hazardous Waste Number;

iv. the sample is shipped to a laboratory or testing facility that is exempt under Subsection D.6 of this Section or has an appropriate LAC 33:V.Subpart 1 permit or interim status;

v. the generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(a). copies of the shipping documents;

(b). a copy of the contract with the facility conducting the treatability study; and

(c). documentation showing:

(i). the amount of waste shipped under this exemption;

(ii). the name, address, and EPA identification number of the laboratory or testing facility that received the waste;

(iii). the date the shipment was made; and

(iv). whether or not unused samples and residues were returned to the generator; and

vi. the generator reports the information required under Subsection D.5.b.v.(c) of this Section in its biennial report.

c. The administrative authority may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The administrative authority may grant requests on a case-by-case basis for quantity limits in excess of those specified in Subsection D.5.b.i and ii and 6.d of this Section for up to an additional 5,000 kg of media contaminated with nonacute hazardous waste, 500 kg of nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste:

i. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations;

ii. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when: there has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment; and

iii. the additional quantities and time frames allowed in Subsection D.5.c.i and ii of this Section are subject to all the provisions in Subsection D.5.a and b.iii-vi of this Section. The generator or sample collector must apply to the administrative authority and provide in writing the following information:

(a). the reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

(b). documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study

processes were conducted on each sample shipped, and the available results of each treatability study;

(c). a description of the technical modifications or change in specifications that will be evaluated and the expected results;

(d). if such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(e). such other information that the administrative authority considers necessary.

6. Samples Undergoing Treatability Studies at Laboratories and Testing Facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to LAC 33:V.Subpart 1 requirements) are not subject to any requirement of LAC 33:V.Chapters 3, 5, 9, 11, 13, 15, 22, 41, and 43 or to the notification requirements of Subsection A of this Section, provided that the following conditions are met. A mobile treatment unit may qualify as a testing facility subject to Subsection D.6.a-k of this Section. Where a group of mobile treatment units is located at the same site, the limitations specified in Subsection D.6.a-k of this Section apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit:

a. no less than 45 days before conducting treatability studies, the facility notifies the administrative authority in writing that it intends to conduct treatability studies under this Subsection;

b. the laboratory or testing facility conducting the treatability study has an EPA identification number;

c. no more than a total of 10,000 kg of "as received" media contaminated with nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subjected to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector;

d. the quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of nonacute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including nonhazardous solid waste) added to "as received" hazardous waste;

e. no more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility;

f. the treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste;

g. the facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

i. the name, address, and EPA identification number of the generator or sample collector of each waste sample;

ii. the date shipment was received;

iii. the quantity of waste accepted;

iv. the quantity of "as received" waste in storage each day;

v. the date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

vi. the date the treatability study was concluded; and

vii. the date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the EPA identification number;

h. the facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study;

i. the facility prepares and submits a report to the administrative authority by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

i. the name, address, and EPA identification number of the facility conducting the treatability studies;

ii. the types (by process) of treatability studies conducted;

iii. the names and addresses of persons for whom studies have been conducted (including their EPA identification numbers);

iv. the total quantity of waste in storage each day;

v. the quantity and types of waste subjected to treatability studies;

vi. when each treatability study was conducted; and

vii. the final disposition of residues and unused sample from each treatability study;

j. the facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under LAC 33:V.109.Hazardous Waste and, if so, are subject to LAC 33:V.Chapters 3, 5, 9, 11, 13, 15, 22, 41, 43, and 49, unless the residue and unused samples are returned to the sample originator under the Subsection D.5 of this Section exemption; and

k. the facility notifies the administrative authority by letter when the facility is no longer planning to conduct any treatability studies at the site.

7. The following wastes are exempt from regulation under this Subpart, except as specified in LAC 33:V.Chapter 38, and therefore, are not fully regulated as hazardous waste. The wastes listed in this Section are subject to regulation under LAC 33:V.Chapter 38:

a. batteries as described in LAC 33:V.3803;

b. pesticides as described in LAC 33:V.3805; and

c. thermostats as described in LAC 33:V.3807.

8. PCB Wastes Regulated Under Toxic Substance Control Act. PCB-containing dielectric fluid and electric equipment containing such fluid authorized for use and regulated by the United States Environmental Protection Agency under 40 CFR 761, and that are hazardous only because they fail the test for the toxicity characteristic (Hazardous Waste Numbers D018—D043 only) are exempt from regulation under LAC 33:V.Subpart 1.

* * *

[See Prior Text in E - J.2]

K. Variance to be Classified as a Boiler

1. Variance to be Classified as a Boiler. In accordance with the standards and criteria in LAC 33:V.109.Boiler and the procedures in Subsection K.2 of this Section, the administrative authority may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in LAC 33:V.109 after considering the following criteria:

a. the extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

b. the extent to which the combustion chamber and energy recovery are of integral design; and

c. the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

d. the extent to which exported energy is utilized; and

e. the extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and

f. other factors, as appropriate.

2. Procedures for Variances From Classification as a Solid Waste or to be Classified as a Boiler. The administrative authority will use the following procedures in evaluating applications for variances from classification as a solid waste or applications to classify particular enclosed controlled flame combustion devices as boilers as provided in this Subsection:

a. the applicant must apply to the administrative authority. The application must address the relevant criteria contained in this Subsection; and

b. the administrative authority will evaluate the application and issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and/or radio broadcast in the locality where the recycler is located. The administrative authority will accept comment on the tentative decision for 30 days and may also hold a public hearing upon request or at his discretion. The administrative authority will issue a final decision after receipt of comments and after a hearing (if any).

L. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis

1. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis. The administrative authority may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in LAC 33:V.4105.C.4 should be regulated under Subchapter A of LAC 33:V.Chapter 41. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the administrative authority will consider the following factors:

a. the types of materials accumulated or stored and the amounts accumulated or stored;

b. the method of accumulation or storage;

c. the length of time the materials have been accumulated or stored before being reclaimed;

d. whether any contaminants are being released into the environment, or are likely to be so released; and

e. other relevant factors.

2. Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities. The administrative authority will use the following procedures when determining whether to regulate hazardous waste recycling activities described in LAC 33:V.4105.C.3 under the provisions of Subchapter A of LAC 33:V.Chapter 41, rather than under the provisions of Subchapter C of LAC 33:V.Chapter 41 of these regulations:

a. if a generator is accumulating the waste, the administrative authority will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of LAC 33:V.1101, 1109.A, 1111.A, and 1113.A. The notice will become final within 30 days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the administrative authority will hold a public hearing. The administrative authority will provide notice of the hearing to the public and allow public participation at the hearing. The administrative authority will issue a final order after the hearing stating whether or not compliance with LAC 33:V.Chapter 11 is required. The order becomes effective 30 days after service of the decision unless the administrative authority specifies a later date or unless review by the administrative authority is requested. The order may be appealed to the administrative authority by any person who participated in the public hearing. The administrative authority may choose to grant or to deny the appeal. Final department action occurs when a final order is issued and department review procedures are exhausted; and

b. if the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of these regulations. The owner or operator of the facility must apply for a permit within no less than 60 days and no more than 180 days of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the administrative

authority's decision, he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the department's determination. The question of whether the administrative authority's decision was proper will remain open for consideration during the public comment period discussed under LAC 33:V.707 and in any subsequent hearing.

* * *

[See Prior Text in M - N.5]

O. Variances from Classification as a Solid Waste

1. Variances from Classification as a Solid Waste. In accordance with the standards and criteria below, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid waste:

a. materials that are accumulated speculatively without sufficient amounts being recycled, as defined in LAC 33:V.109;

b. materials that are reclaimed and then reused within the original production process in which they were generated; and

c. materials that have been reclaimed, but must be reclaimed further before the materials are completely recovered.

2. Standards and Criteria for Variances from Classification as a Solid Waste

a. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The administrative authority's decision will be based on the following criteria:

i. the manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (e.g., because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);

ii. the reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;

iii. the quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;

iv. the extent to which the material is handled to minimize loss; and

v. other related factors.

b. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

i. how economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;

ii. the prevalence of the practice on an industry-wide basis;

iii. the extent to which the material is handled before reclamation to minimize loss;

iv. the time periods between generating the material and its reclamation and between reclamation and return to the original primary production process;

v. the location of the reclamation operation in relation to the production process;

vi. whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

vii. whether the person who generates the material also reclaims it; and

viii. other relevant factors.

c. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

i. the degree of processing the material has undergone and the degree of further processing that is required;

ii. the value of the material after it has been reclaimed;

iii. the degree to which the reclaimed material is like an analogous raw material;

iv. the extent to which an end market for the reclaimed material is guaranteed;

v. the extent to which the reclaimed material is handled to minimize loss; and

vi. other relevant factors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952

(August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:1093 (June 1998).

§109. Definitions

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

* * *

[See Prior Text]

Accumulated Speculatively—a material is *accumulated speculatively* if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under LAC 33:V.105.D.3 are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

* * *

[See Prior Text]

Boiler—an enclosed device using controlled flame combustion and having the following characteristics:

* * *

[See Prior Text in 1 - 1.c]

2. the unit is one which the administrative authority has determined, on a case-by-case basis, to be a boiler, after considering the standards in LAC 33:V.105.K.

* * *

[See Prior Text]

Hazardous Waste—a solid waste, as defined in this Section, is a hazardous waste if:

1. it is not excluded from regulation as a hazardous waste under LAC 33:V.105.D; and

2. it meets any of the following criteria:

a. it exhibits any of the characteristics of hazardous waste identified in LAC 33:V.4903, except that any mixture of a waste from the extraction, beneficiation, or processing of ores and minerals excluded under LAC 33:V.105.D.2.h and any other solid waste exhibiting a characteristic of hazardous waste under LAC 33:V.4903 is a hazardous waste only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred; or if it continues to exhibit any of the characteristics exhibited by the nonexcluded wastes prior to mixture. Further, for the purposes of applying the toxicity characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum concentration for any contaminant listed in LAC 33:V.4903.E.Table 5 that would not have been exceeded by the excluded waste alone if the mixture had not occurred or if it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture;

b. it is listed in LAC 33:V.4901 and has not been excluded from the lists in LAC 33:V.4901 by the Environmental Protection Agency or the administrative authority;

c. it is a mixture of a solid waste and a hazardous waste that is listed in LAC 33:V.4901 solely because it exhibits one or more of the characteristics of hazardous waste identified in LAC 33:V.4903 unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.4903; or unless the solid waste is excluded from regulation under LAC 33:V.105.D.2.h and the resultant mixture no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.4903 for which the hazardous waste listed in LAC 33:V.4901 was listed. (However, nonwastewater mixtures are still subject to the requirements of LAC 33:V.Chapter 22, even if they no longer exhibit a characteristic at the point of land disposal.);

d. it is a mixture of solid waste and one or more hazardous wastes listed in LAC 33:V.4901 and has not been excluded from Paragraph 2 of this definition under LAC 33:V.105.D and M; however, the following mixtures of solid wastes and hazardous wastes listed in LAC 33:V.4901 are not hazardous wastes (except by application of Paragraph 2.a or b of this definition) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater) and:

i. one or more of the following solvents listed in LAC 33:V.4901.B—carbon tetrachloride, tetrachloroethylene, trichloro-ethylene—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed one part per million; or

ii. one or more of the following spent solvents listed in LAC 33:V.4901.B—methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million; or

iii. one of the following wastes listed in LAC 33:V.4901.C—heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste Number K050); or

iv. a discarded commercial chemical product or chemical intermediate listed in LAC 33:V.4901.D and E arising from de minimis losses of these materials from manufacturing operations in which these materials are used as

raw materials or are produced in the manufacturing process. For purposes of this Clause, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers rendered empty by that rinsing; or

v. wastewater resulting from laboratory operations containing toxic (T) wastes listed in LAC 33:V.4901, provided that the annualized average flow of laboratory wastewater does not exceed 1 percent of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system, or provided the wastes' combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation; or

vi. one or more of the following wastes listed in LAC 33:V.4901.C—wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157)—provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or are recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five parts per million by weight; or

vii. wastewaters derived from the treatment of one or more of the following wastes listed in LAC 33:V.4901.C—organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156)—provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five milligrams per liter; and

e. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by using an analytical method from LAC 33:V.Chapter 49.Appendix A to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105.Table 1).

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed.

ii. The rebuttable presumption does not apply to used oils contaminated with Chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

3. A solid waste which is not excluded from regulation under LAC 33:V.105.D becomes a hazardous waste when any of the following events occur:

a. in the case of a waste listed in LAC 33:V.4901, when the waste first meets the listing description set forth in LAC 33:V.4901;

b. in the case of a mixture of solid waste and one or more listed hazardous wastes, when a hazardous waste listed in LAC 33:V.4901 is first added to the solid waste; and

c. in the case of any other waste (including a waste mixture), when the waste exhibits any of the characteristics identified in LAC 33:V.4903.

4. Unless and until a hazardous waste meets the criteria of Paragraph 5 of this definition:

a. a hazardous waste will remain a hazardous waste;

b.i. Except as otherwise provided in Paragraph 4.b.ii of this definition, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation runoff) is a hazardous waste. (However, materials that are reclaimed from solid waste and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

ii. The following solid wastes are not hazardous even though they are generated from the treatment, storage, or disposal of hazardous waste, unless they exhibit one or more of the characteristics of hazardous wastes:

(a). waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332);

(b). waste from burning any of the materials exempted from regulation by LAC 33:V.4105.B.9 - 12;

(c).(i). nonwastewater residues, such as slag, resulting from High-Temperature Metals Recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations, or industrial furnaces (as defined in Industrial Furnace, Paragraphs 6, 7 and 13, in this Section), that are disposed of in subtitle D units, provided that these residues meet the generic exclusion levels identified in Tables A and B of this definition for all constituents and exhibit no characteristics of hazardous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion

in an enforcement action will have the burden of proving, by clear and convincing evidence, that the material meets all of the exclusion requirements.

Table A

Generic Exclusion Levels for K061 and K062 Nonwastewater HTMR Residues	
Constituent	**Maximum for any Single Composite Sample-TCLP (mg/l)**
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

Table B

Generic Exclusion Levels for F006 Nonwastewater HTMR Residues	
Constituent	**Maximum for any Single Composite Sample-TCLP (mg/l)**
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(ii). A one-time notification and certification must be placed in the facility's files and sent to the administrative authority for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generators' or treaters' files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater needs only to notify the administrative authority on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31. The notification must include the following information:

[a]. the name and address of the subtitle D unit receiving the waste shipments;

[b]. the EPA hazardous waste number(s) and treatability group(s) at the initial point of generation; and

[c]. the treatment standards applicable to the waste at the initial point of generation; and

[d]. the certification must be signed by an authorized representative and must state as follows:

> "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

d. Biological treatment sludge from the treatment of one of the following wastes listed in LAC 33:V.4901.C—organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156), and wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157).

5. Any solid waste described in Paragraph 4 of this definition is not a hazardous waste if it meets the following criteria:

a. in the case of any solid waste, it does not exhibit any of the characteristics of hazardous waste identified in LAC 33:V.4903. (However, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of LAC 33:V.Chapter 22, even if they no longer exhibit a characteristic at the point of land disposal);

b. in the case of a waste which is a listed waste under LAC 33:V.4901, contains a waste listed under LAC 33:V.4901 or is derived from a waste listed in LAC 33:V.4901, and it also has been excluded from Paragraph 4 of this definition under LAC 33:V.105.H and M.

6. Notwithstanding Paragraphs 1-4 of this definition and provided the debris as defined in LAC 33:V.2203 does not exhibit a characteristic identified at LAC 33:V.4903.B-E, the following materials are not subject to regulation under LAC 33:V.Subpart 1:

a. hazardous debris as defined in LAC 33:V.2203 that has been treated using one of the required extraction or destruction technologies specified in LAC 33:V.Chapter 22.Appendix.Table 8. Persons claiming this exclusion in an enforcement action will have the burden of proving, by clear and convincing evidence, that the material meets all of the exclusion requirements; or

b. debris as defined in LAC 33:V.2203 that the administrative authority, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

* * *

[See Prior Text]

Solid Waste—

1.a. any discarded material that is not excluded by LAC 33:V.105.D or that is not excluded by a variance granted under LAC 33:V.105.O.

b. a discarded material is any material which is:

i. abandoned as explained in Paragraph 2 of this definition;

ii. recycled as explained in Paragraph 3 of this definition; or

iii. considered inherently waste-like, as explained in Paragraph 4 of this definition.

2. Materials are solid waste if they are abandoned by being:

a. disposed of; or

b. burned or incinerated; or

c. accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

3. Materials are solid wastes if they are recycled—or accumulated, stored, or treated before recycling—as specified in Paragraph 3.a-d of this definition:

a. used in a manner constituting disposal:

i. materials noted with an "*" in column 1 of Table 1 in this Chapter are solid wastes when they are:

(a). applied to or placed on the land in a manner that constitutes disposal; or

(b). used to produce products that are applied to or placed on the land (in which cases the product itself remains a solid waste);

ii. however, commercial chemical products listed in LAC 33:V.4901.D and E are not solid wastes if they are applied to the land and that is their ordinary manner of use;

b. burning for energy recovery:

i. materials noted with an "*" in column 2 of Table 1 in this Chapter are solid wastes when they are burned to recover energy, used to produce a fuel, or otherwise contained in fuels (in which case the fuel itself remains a solid waste);

ii. however, commercial chemical products listed in LAC 33:V.4901.D and E are not solid wastes if they are themselves fuels;

c. reclaimed—materials noted with an "*" in column 3 of Table 1 in this Chapter are solid wastes when reclaimed;

d. accumulated speculatively—materials noted with an "*" in column 4 of Table 1 in this Chapter are solid wastes when accumulated speculatively.

4. Inherently Waste-Like Materials. The following materials are solid wastes when they are recycled in any manner:

a. Hazardous Waste Numbers F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028;

b. secondary materials fed to a halogen acid furnace that exhibit a characteristic of a hazardous waste or are listed as a hazardous waste as defined in LAC 33:V.4901 or 4903, except for brominated material that meets the following criteria:

i. the material must contain a bromine concentration of at least 45 percent;

ii. the material must contain less than a total of 1 percent of toxic organic compounds listed in LAC 33:V.3105.Table 1; and

iii. the material is processed continually on-site in the halogen acid furnace via direct conveyance (hard piping); and

c. the administrative authority will use the following criteria to add wastes to that list:

i. the materials are ordinarily disposed of, burned, or incinerated; or

ii. the materials contain toxic constituents listed in Table 1 of LAC 33:V.Chapter 31 and these constituents are not ordinarily found in raw materials or products for which the materials substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

iii. the material may pose a substantial hazard to human health and the environment when recycled.

5. Materials that are not Solid Waste when Recycled

a. Materials are not solid wastes when they can be shown to be recycled by being:

i. used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed; or

ii. used or reused as effective substitutes for commercial products; or

iii. returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on land.

b. The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process (described in preceding paragraphs of this definition):

i. materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

ii. materials burned for energy recovery, used to produce a fuel, or otherwise contained in fuels; or

c. Materials accumulated speculatively; or

d. Inherently waste-like materials listed in Paragraph 4 of this definition.

6. Respondents in actions to enforce regulations who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

Table 1				
	Use Constituting Disposal (1)	Energy Recovery/Fuel (2)	Reclamation (3)	Speculative Accumulation (4)
Spent Materials	*	*	*	*
Sludges (listed in LAC 33:V.4901)	*	*	*	*
Sludges exhibiting a characteristic of hazardous waste	*	*	.....	*
By-products (listed in LAC 33:V.4901)	*	*	*	*
By-products exhibiting a characteristic of hazardous waste	*	*	.....	*
Commercial chemical products listed in LAC 33:V.4901.E and F	*	*	.....	
Scrap Metal	*	*	*	*

* * *

[See Prior Text]

Treatability Study—a study in which a hazardous waste is subjected to a treatment process to determine:

1.a. whether the waste is amenable to the treatment process;

b. what pretreatment (if any) is required;

c. the optimal process conditions needed to achieve the desired treatment;

d. the efficiency of a treatment process for a specific waste or wastes; or

e. the characteristics and volumes of residuals from a particular treatment process.

2. Also included in this definition for the purpose of the LAC 33:V.105.D.5 and 6 exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means of commercially treating or disposing of hazardous waste.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1101 (June 1998).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§305. Scope of the Permit

* * *

[See Prior Text in A - C.1]

2. generators who accumulate hazardous waste in an environmentally sound manner, on-site for less than 90 days in accordance with LAC 33:V.1109.E;

3. farmers who dispose of hazardous waste pesticides from their own use as provided in LAC 33:V.1101.D;

* * *

[See Prior Text in C.4 - 9]

10. owners and operators of facilities granted a research development and demonstration permit under section 3005(g) of Subtitle C of RCRA, is so specifically exempted by the administrative authority;

11. universal waste handlers and universal waste transporters (as defined in LAC 33:V.3813) handling the wastes listed below. These handlers are subject to regulation under LAC 33.V.Chapter 38, when handling the below listed universal wastes:

a. batteries as described in LAC 33:V.3803;

b. pesticides as described in LAC 33:V.3805; and

c. thermostats as described in LAC 33:V.3807;

12. the owner or operator of a facility permitted, licensed, or registered to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation by LAC 33:V.Subpart 1.

* * *

[See Prior Text in D - G.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658

(July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1105 (June 1998).

Chapter 5. Permit Application Contents

Subchapter E. Specific Information Requirements

§525. Specific Part II Information Requirements for Surface Impoundments

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that treat, store, or dispose of hazardous waste in surface impoundments must provide the following additional information:

* * *

[See Prior Text in A - J.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

§527. Specific Part II Information Requirements for Waste Piles

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that treat or store hazardous waste in waste piles must provide the following additional information:

* * *

[See Prior Text in A - J.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

§531. Specific Part II Information Requirements for Land Treatment Facilities

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that use land treatment to dispose of hazardous waste must provide the following additional information:

* * *

[See Prior Text in A - H.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

§533. Specific Part II Information Requirements for Landfills

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that dispose of hazardous waste in landfills must provide the following additional information:

* * *

[See Prior Text in A - J.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), LR 21:944(September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

Chapter 11. Generators

§1101. Applicability

* * *

[See Prior Text in A - C]

D. A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this Chapter or other standards in the LAC 33:V.Chapters 3, 5, 7, 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, 37, and 43 for those wastes, provided he triple rinses each emptied pesticide container in accordance with the provisions of LAC 33:V.109.Empty Container.3 and disposes of the pesticide residues in a manner consistent with the disposal instructions on the pesticide label.

* * *

[See Prior Text in E - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:398 (May 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 22:20 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A - C.2]

3. Reserved;

4. a farmer disposing of waste pesticides from his own use as provided in LAC 33:V.1101.D;

* * *

[See Prior Text in C.5 - 11.c]

D. The requirements of this Chapter apply to owners or operators of all facilities which treat, store, or dispose of hazardous wastes referred to in LAC 33:V.Chapter 22.

E. The requirements of this Chapter apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act only to the extent they are included in a RCRA permit by rule granted to such a person under LAC 33:V.305.D.

F. The requirements of this Chapter apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act only to the extent they are required by 40 CFR 144.14.

G. The requirements of this Chapter apply to the owner or operator of a POTW which treats, stores, or disposes of hazardous waste only to the extent they are included in a RCRA permit by rule granted to such a person under LAC 33:V.305.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

Chapter 19. Tanks

§1901. Applicability

The requirements of this Chapter apply to owners and operators of facilities that use tank systems for storing or treating hazardous waste except as otherwise provided in Subsections A and B of this Section or LAC 33:V.1501.

* * *

[See Prior Text in A - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

Chapter 21. Containers

§2101. Applicability

The regulations in this Chapter apply to owners and operators of all hazardous waste facilities that store containers of hazardous waste, except as specified in LAC 33:V.1501, or if the container is empty (see LAC 33:V.109).

* * *

[See Prior Text in A - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A - I]

1. waste pesticides that a farmer disposes of in accordance with LAC 33:V.1101.D;

* * *

[See Prior Text in I.2 - 5.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

Chapter 23. Waste Piles

§2301. Applicability

A. The regulations in this Subpart apply to owners and operators of facilities that store or treat hazardous waste in piles, except as specified in LAC 33:V.1501.

* * *

[See Prior Text in B - C.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

Chapter 25. Landfills

§2501. Applicability

The regulations in this Chapter apply to owners and operators of facilities that dispose of hazardous waste in landfills, except as specified in LAC 33:V.1501.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

Chapter 27. Land Treatment

§2701. Applicability

The regulations in this Chapter apply to owners and operators of facilities that treat or dispose of hazardous waste in land treatment units, except as LAC 33:V.1501 provides otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

Chapter 29. Surface Impoundments

§2901. Applicability

The regulations in this Subpart apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste except as LAC 33:V.1501 provides otherwise.

[Comment: All surface impoundments used to store hazardous waste, including short-term storage (90 days or less), must have a TSD permit.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3025. Regulation of Residues

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of a hazardous waste under LAC 33:V.105.D.2.d, h, and i unless the device and the owner or operator meet the following requirements:

* * *

[See Prior Text in A - A.1]

2. Ore or Mineral Furnaces. Industrial furnaces subject to LAC 33:V.105.D.2.h must process at least 50 percent by

weight normal, nonhazardous raw materials;

* * *

[See Prior Text in A.3 - C.2.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998).

Chapter 35. Closure and Post-Closure

§3501. Applicability

* * *

[See Prior Text in A]

B. Except as LAC 33:V.1501 provides otherwise, LAC 33:V.3503—3517 (which concern closure) apply to all hazardous waste facilities in operation or under construction as of the effective date of LAC 33:V.Subpart 1 and to all hazardous waste facilities permitted under LAC 33:V.Subpart 1, as applicable.

* * *

[See Prior Text in C - C.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998).

Chapter 38. Universal Wastes

Subchapter A. General

§3801. Scope and Applicability

* * *

[See Prior Text in A]

B. Persons managing household wastes that are exempt under LAC 33:V.105.D.2.a and are also of the same type as the universal wastes as defined in this Chapter may, at their option, manage these wastes under the requirements of this Chapter.

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998).

§3805. Applicability—Pesticides

* * *

[See Prior Text in A - B]

1. recalled pesticides described in Subsection A.1 of this Section, and unused pesticide products described in Subsection A.2 of this Section, that are managed by farmers in compliance with LAC 33:V.1101.D (LAC 33:V.1101.D addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with the definition of *empty container* under LAC 33:V.109); * * *

[See Prior Text in B.2 - D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:569 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998).

Chapter 40. Used Oil

Subchapter A. Materials Regulated as Used Oil

§4003. Applicability

This Section identifies those materials which are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

* * *

[See Prior Text in A - E.1.a]

b. not solid wastes and, thus, are not subject to the hazardous waste regulations of LAC 33:V.Subpart 1 as provided in LAC 33:V.109.Hazardous Waste.4.b.i.

* * *

[See Prior Text in E.2 - I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:836 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998).

Chapter 41. Recyclable Materials

§4105. Requirements for Recyclable Material

Recyclable materials are subject to additional regulations as follows:

* * *

[See Prior Text in A - B.4]

5. Reserved
6. Reserved

* * *

[See Prior Text in B.7]

8. fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under LAC 33:V.105.D.1.l);

* * *

[See Prior Text in B.9 - F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998).

Chapter 43. Interim Status

Subchapter A. General Facility Standards

§4307. Applicability

The regulations of LAC 33:V.Chapter 43 apply to owners and operators of all hazardous waste facilities except as LAC 33:V.1501 provides otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

Subchapter C. Contingency Plan and Emergency Procedures

§4337. Applicability

The regulations of this Subchapter apply to owners and operators of all hazardous waste facilities except as provided in LAC 33:V.4307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

Subchapter D. Manifest System, Recordkeeping, and Reporting

§4351. Applicability

The regulations in this Subchapter apply to owners and operators of both on-site and off-site facilities, except as LAC 33:V.4307 provides otherwise. LAC 33:V.4353, 4355, and 4363 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

Subchapter F. Closure and Post-Closure

§4377. Applicability

Except as LAC 33:V.4307 provides otherwise:

* * *

[See Prior Text in A - B.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:219 (March 1990), LR 16:614 (July 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

Subchapter G. Financial Requirements

§4397. Applicability

A. The requirements of LAC 33:V.3719, 4401, 4403, 4411, and 4413 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this Section or in LAC 33:V.4307.

* * *

[See Prior Text in B - C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 13:651 (November 1987), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

Subchapter J. Surface Impoundments

§4447. Applicability

The regulations in this Subchapter apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste, except as LAC 33:V.4307 provides otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

Subchapter K. Waste Piles

§4463. Applicability

The regulations in this Subchapter apply to owners and operators of facilities that treat or store hazardous waste in piles, except as LAC 33:V.4307 provides otherwise. Alternatively, a pile of hazardous waste may be managed as a landfill under LAC 33:V.Chapter 43, Subchapter M.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

Subchapter L. Land Treatment

§4477. Applicability

The regulations in this Subchapter apply to owners and operators of hazardous waste land treatment facilities with interim status, except as LAC 33:V.4307 provides otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

Subchapter M. Landfills

§4495. Applicability

The regulations in this Subchapter apply to owners and operators of facilities that dispose of hazardous waste in landfills, except as LAC 33:V.4307 provides otherwise. A waste pile used as a disposal facility is a landfill and is governed by this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998).

Subchapter O. Thermal Treatment

§4523. Applicability

The regulations in this Subpart apply to owners or operators of facilities that thermally treat hazardous waste in devices other than enclosed devices using controlled flame combustion, except as LAC 33:V.4307 provides otherwise. Thermal treatment in enclosed devices using controlled flame combustion is subject to the requirements of LAC 33:V.Chapter 31 and Subchapter N of LAC 33:V.Chapter 43 if the unit is an incinerator, and LAC 33:V.Chapter 30, if the unit is a boiler or an industrial furnace as defined in LAC 33:V.109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1110 (June 1998).

Subchapter P. Chemical, Physical, and Biological Treatment

§4535. Applicability

The regulations in this Subchapter apply to owners and operators of facilities which treat hazardous wastes by chemical, physical, or biological methods in other than tanks, surface impoundments, and land treatment facilities, except as LAC 33:V.4307 provides otherwise. Chemical, physical, and biological treatment of hazardous waste in tanks, surface impoundments, and land treatment facilities must comply with the requirements of LAC 33:V.Chapter 43, Subchapters I, J, and L, respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1110 (June 1998).

Chapter 49. Lists of Hazardous Wastes

*Editor's Note: The text in §4905 has been moved to LAC 33:V.109.*Hazardous Waste.*2.d.*

§4905. Exclusions for Wastewaters

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:791 (November 1988), LR 15:182 (March 1989), LR 18:723 (July 1992), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1110 (June 1998).

H.M. Strong
Assistant Secretary

9806#030

RULE

Firefighters' Pension and Relief Fund
City of New Orleans and Vicinity

Repeal of Death Benefit Payments

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity ("fund"), pursuant to R.S. 11:3363(F) hereby repeals its death benefit rules.

I. Definitions

Repealed.

II. Beneficiary Designations and Election of Retirement and Death Benefits

Repealed.

III. Calculation of Death Benefits

Repealed.

IV. Pre-Retirement Death Benefits

Repealed.

V. General

Repealed.

William M. Carrouché
President

9806#021

RULE

Office of the Governor
Office of Elderly Affairs

FY 1998-99 State Plan
on Aging (LAC 4:VII.1317)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) amends LAC 4:VII.1317, the FY 1998-1999 State Plan on Aging, effective July 1, 1998. This rule change is in accordance with the *Code of Federal Regulations*, 45 CFR 1321.19 "Amendments to the State Plan," and 45 CFR 1321.35 "Withdrawal of Area Agency Designation" (Volume 53, Number 169, pages 33769 and 33770). The purposes of this rule change are:

(1) to reverse the designation of the Governor's Office of Elderly Affairs as the Area Agency on Aging for the Planning and Service Area (PSA) consisting of Allen and Jefferson Davis parishes;

(2) to designate Allen and Jefferson Davis parishes as Planning and Service Areas;

(3) to designate Allen Council on Aging, Inc. as the Area Agency on Aging for the Allen Parish PSA;

(4) to designate the Jefferson Davis Council on Aging, Inc. as the Area Agency on Aging for the Jefferson Davis Parish PSA.

The FY 1998-1999 State Plan on Aging was adopted and published by reference in the September 20, 1997 issue of the *Louisiana Register*, Volume 23, Number 9.

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 13. State Plan on Aging
§1317. Area Agencies on Aging

Area Agency on Aging	Planning and Service Area (Parishes Served)
Allen COA	Allen
Beauregard COA	Beauregard
Bienville COA	Bienville
Bossier COA	Bossier
Caddo COA	Caddo
Cajun COA	Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion
Caldwell COA	Caldwell
Cameron COA	Cameron
Capital Area Agency on Aging (AAA)	Ascension, Assumption, East Feliciana, Iberville, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge, West Feliciana
Cenla AAA	Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Winn
Claiborne COA	Claiborne
DeSoto COA	DeSoto
East Baton Rouge COA	East Baton Rouge
GOEA AAA	Calcasieu
Jefferson COA	Jefferson
Jefferson Davis COA	Jefferson Davis
Lafourche COA	Lafourche
Lincoln COA	Lincoln
Livingston COA	Livingston
Madison COA	Madison
Morehouse COA	Morehouse
Natchitoches COA	Natchitoches
North Delta AAA	East Carroll, Franklin, Jackson, Richland, Union
New Orleans COA	Orleans
Ouachita COA	Ouachita
Plaquemines COA	Plaquemines
Red River COA	Red River
Sabine COA	Sabine
St. Bernard COA	St. Bernard
St. Charles COA	St. Charles
St. James AAA	St. James
St. John COA	St. John the Baptist
St. Tammany COA	St. Tammany
Tensas COA	Tensas
Terrebonne COA	Terrebonne
Vernon COA	Vernon
Webster COA	Webster
West Carroll COA	West Carroll

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated LR 23:1146 (September 1997), amended LR 24:1110 (June 1998).

Paul F. Arceneaux, Jr.
Executive Director

9806#014

RULE

Office of the Governor
Patient's Compensation Fund Oversight Board

Actuarial Study and Rate Application,
Filing, and Notice (LAC 37:III.703 and 707)

The Patient's Compensation Fund Oversight Board, under authority of the Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 37:III.Chapter 7, as follows, pertaining to the dates which the actuarial study and application for surcharge rates or rate changes must be completed and filed with the Insurance Rating Commission.

Title 37
INSURANCE
Part III. Patient's Compensation Fund Oversight Board
Chapter 7. Surcharges
§703. Annual Actuarial Study

A. An actuarial study of the fund and the surcharge rate structure necessary and appropriate to ensure that it is and remains financially and actuarially sound shall be performed annually by the PCF's consulting actuary on the basis of an actuarial analysis of all relevant claims experience data collected and maintained by the fund. In conjunction with the executive director, the consulting actuary shall, on behalf of the board, develop and prepare for submission to the Louisiana Insurance Rating Commission (LIRC) an application for surcharge rates or rate changes.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:175 (February 1992), amended LR 19:204 (February 1993), LR 24:1111 (June 1998).

§707. Rate Applications, Filings; Notice of Rates

A. The PCF's application for surcharge rates or rate changes, if indicated by the annual actuarial study conducted pursuant to §703, shall be filed with the LIRC by the executive director on behalf of the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:175 (February 1992), amended LR 24:1112 (June 1998).

Michael A. Walsh
Executive Director

9806#055

RULE

Department of Health and Hospitals
Board of Dentistry

Comprehensive Rule Revisions
(LAC 46:XXXIII.Chapters 1-17)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.Chapters 1-17. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§103. Evidence of Graduation

A. All applicants for a dental or dental hygiene license shall furnish the board with satisfactory evidence of graduation from an accredited dental school, dental college, or educational program prior to the examination given by the board for such licensure. An accredited dental school, dental college, or educational program shall be one that has been certified as accredited by the Commission on Dental Accreditation of the American Dental Association.

B. The phrase "satisfactory evidence of graduation from an accredited dental school, dental college or educational program" shall mean receipt of satisfactory evidence from the dean of the applicant's school specifically stating that the applicant will indeed graduate within 90 days following the administration of the Louisiana State Board of Dentistry clinical licensing examination.

C. The president of the board shall withhold his signature on the license of the applicant pending receipt of satisfactory evidence of graduation before awarding the applicant's license to practice dentistry or dental hygiene in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 10:88 (February 1984), amended by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998).

§108. Levels and Definitions of Supervision

Licensed dentists who employ dental assistants, expanded duty dental assistants, and dental hygienists shall be responsible for the supervision of those employees' authorized duties. Authorized duties of dental assistants, expanded duty dental assistants, and dental hygienists may also be under the supervision of a licensed dentist who assumes responsibility for the treatment of that patient.

1. Direct Supervision. A licensed dentist personally diagnoses the condition to be treated; personally authorizes the procedures; is in the dental office or treatment facility during the performance of the authorized procedures; and, before dismissal of the patient, evaluates the performance of the dental assistant, expanded duty dental assistant, or dental hygienist.

2. General Supervision. The licensed dentist has authorized the procedures, which are being carried out by the dental hygienist in accordance with the dentist's treatment plan; however, the dentist is not required to be present in the dental office or treatment facility during the performance of the supervised procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998).

§110. Licensees Suffering Impairment Due to Alcohol or Substance Abuse

A. After considerable study and review of other state practices in regards to evaluation, diagnosis, prognosis, and treatment of licensees suffering impairment through chemical or drug abuse, the board shall hereby abide by the following procedures.

1. The board shall attempt to have the Louisiana Dental Association, the Louisiana Dental Hygiene Association, or a constituent association thereof, conduct an intervention with the alleged impaired licensee.

2. Where possible, a member of the Louisiana State Board of Dentistry may attend said intervention on either an official or unofficial basis according to his judgment in each particular case.

3. If the alleged impaired licensee fails to comply with the wishes and instructions of the intervention within seven days following said intervention, the board may order said alleged licensee into a properly equipped and board-approved facility for evaluation and, if necessary, treatment for the impairment, if same is proven positive. Should the evaluation prove that the licensee is not impaired, the cost of the evaluation shall be borne by the board. If the evaluation is positive for impairment, the cost for evaluation and all treatment thereof shall be borne by the licensee.

4. Should the alleged impaired licensee fail to comply with the order of the board relative to evaluation and treatment, formal proceedings may be brought against the alleged impaired licensee as soon as practicality dictates.

B. Any adverse action taken as a result thereof shall be reported to the National Practitioner Data Bank. However, if there is no action taken by the board in these matters, any required reporting to the National Practitioner Data Bank shall

not be the responsibility of the Louisiana State Board of Dentistry.

C. If the impaired licensee has violated any other provisions of the Louisiana Dental Practice Act, said violation shall be prosecuted and any subsequent action taken thereof shall be reported to the National Practitioner Data Bank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(2) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998).

§112. Avoidance of Conflict of Interest by Board Members

A. No board member, during his or her term of office, shall simultaneously serve or hold the following appointive or elective offices in any local or statewide voluntary dental or dental hygiene association, organization, or society:

1. president;
2. president-elect;
3. vice-president;
4. secretary;
5. treasurer;
6. board of directors (elected or ex-officio);
7. peer review committee;
8. delegate or alternate delegate.

B. However, §112 shall not prohibit a board member from participating in any capacity relative to the administration of continuing education in any local or statewide voluntary dental association, organization, or society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998).

§114. Reinstatement of Licenses Revoked for Nonpayment

Any licensee seeking the reinstatement of his or her license to practice dentistry or dental hygiene in the state of Louisiana shall request, in writing, the reinstatement of his or her license, and personally appear before the board for an interview to determine the merits of the request for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998).

§116. Reconsideration of Adverse Sanctions

A. Any person wishing to initiate an application for reconsideration of an adverse disciplinary decision of the board or consent decree must make the request in writing and it shall be received by the board at its office at least 30 days prior to the next scheduled meeting of the board.

B. The request for reconsideration should be accompanied by supporting documentation and other pertinent information demonstrating his/her professional and/or personal rehabilitation since the adverse disciplinary sanctions or decision of the board.

C. If timely received, the applicant's written request and all supporting documentation and/or information are delivered to the board's disciplinary committee which originally rendered the adverse decision to the applicant, and said committee shall determine if the applicant's request for reconsideration has substantial merit. In the course of the committee's review, if it deems necessary, it may require the applicant and all supporting references to appear in person before the committee for the purpose of affording the committee an opportunity to personally interview each person. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Because of the nature of the request, the committee may entertain it in executive session at the option of the applicant. Moreover, the committee shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly review of the subject matter. After review of the documentation and completion of the interviews, if any, the committee will determine if the request for reconsideration has sufficient merit to warrant the committee's favorable recommendation to the full board. If the committee rules favorably to the applicant, then the applicant's entire request for reconsideration and all supporting documentation and/or information are forwarded to the full board for its further consideration at the next scheduled board meeting.

D. If the committee decides that the application is without substantial merit, it shall so inform the officers of the board and, thereafter, one officer shall be appointed to notify the applicant, in writing, of said unfavorable action.

E. The full board, at its next meeting, may consider the matter in open meeting if requested to do so by the applicant. In the absence of such consent, the board shall entertain the matter in executive session. In the course of the board's review, if it deems necessary, it may require the applicant and all supporting references to appear in person before the board for the purpose of affording the board an opportunity to interview each person first hand. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Moreover, the board shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly meeting.

F. If the full board concurs with the favorable recommendations of the disciplinary committee, then the board shall decide upon the exact terms and conditions of any amendment, modification, or other change in the original decision rendered against the applicant. Thereafter, the applicant shall be notified, in writing, of the board's decision.

G. If the full board does not concur with the favorable recommendations of the disciplinary committee, then the board shall so notify the applicant in writing.

H. Any person desiring to file an application for a reconsideration with the board shall be permitted to do so only once every 12 months. If an application is denied, then that person must wait at least until the expiration of 12 months from the date appearing on the board's denial letter before submitting a subsequent application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998).

§118. Guidelines for Granting Return to Active Status

In addition to the continuing education requirements set forth in LAC 46:XXXIII.1601 et seq., an applicant must pass the examination in jurisprudence and ethics as given by the board, and make full payment of all necessary fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998).

§120. Temporary Licenses

Under R.S. 37:760(6), the board is authorized to issue licenses in conformity with the Louisiana Dental Practice Act. However, under R.S. 37:752(8), dentists and dental hygienists may obtain a temporary license without satisfying all licensing requirements of the Louisiana Dental Practice Act provided the applicant applies for a full license by taking an examination at the next time the clinical licensure examination is given by the board or by applying for licensure by credentials. In order to protect the public and to avoid abuses of this exemption, the board shall not award a temporary license to any dentist under the provisions of R.S. 37:752(8), and will not award a temporary license to any dental hygienist within 60 days before or 60 days after the clinical licensing examination is given. Section 120 does not prohibit the awarding of temporary licenses to dentists who are seeking exemptions under R.S. 37:752(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998).

§122. Scopes of Practice

A. The board has reviewed and approved the "Standards for Advanced Specialty Education Programs" set forth by the Commission on Dental Accreditation of the American Dental Association and approves of the following specialties:

1. dental public health;
2. endodontics;
3. oral and maxillofacial surgery;
4. oral pathology;
5. orthodontic and facial orthopedics;
6. pediatric dentistry;
7. periodontics; and
8. prosthodontics.

B. The board approves of the definition of the specialties listed in §122.A and as set forth in §301.D, and acknowledges that those definitions set forth the scope of practice of said specialties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998).

Chapter 3. Dentists

§306. Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

1. has satisfactorily passed an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the jurisprudence affecting same;

2. currently possesses a nonrestricted license in another state as defined in R.S. 37:751(L);

3. has been in active practice, while possessing a nonrestricted license in another state, by working full-time as a dentist at a minimum of 1,0000 hours per year for the preceding five years before applying for licensure in Louisiana or full-time dental education as a teacher for a minimum of three years immediately prior to applying for licensure; or has completed a two-year general dentistry residency program or successfully completed a residency program in one of the board recognized dental specialties as defined in §301;

4. - 18. ...

19. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus and Hepatitis B Virus, and provide a notarized certificate of health from a medical doctor relative to his physical and mental condition;

20. has completed continuing education equivalent to the state of Louisiana's for the two years prior to applying for licensure by credentials.

B. The applicant must also:

1. show or provide a sworn affidavit that there are no unresolved complaints against him/her;

2. provide a notarized statement from the local peer review chairman where he/she is presently practicing stating that there have been no negative cases within the preceding five years relative to the applicant;

3. sign a release authorizing the peer review chairman to provide such information to the board;

4. show that his professional liability insurance has never been revoked, modified, or nonrenewed;

5. show proof that he/she has not failed the Louisiana State Board of Dentistry clinical licensure examination within the preceding 10 years;

C. A person in a residency program may not apply for licensure by credentials unless they have held an active license for at least two years during said residency. The fact of passing a regional board examination is not acceptable unless the license has been activated.

D. Applicants must also meet those requirements set forth in R.S. 37:761 and LAC 46:XXXIII.103.

E. Regardless of the applicant's compliance with the foregoing requirements, the board may refuse to issue a dental or dental hygiene license based on the applicant's credentials for any reason listed in R.S. 37:775 and R.S. 37:776.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998).

§318. Patient's Records

A. Upon written request from the patient or the patient's legal representative, each dentist shall furnish a copy of any of the patient's dental records maintained in the dentist's office within 15 days, exclusive of holidays or weekends, from the receipt of the request.

B.1. The original dental records are the property of the dentist. However, the dentist may charge a reasonable copying charge not to exceed:

$1 per page for the first 25 pages;

$.50 per page for pages 26 - 500; and

$.25 per page thereafter.

2. A handling charge not to exceed $5, and actual postage may also be charged.

3. The dentist may also charge a reasonable fee for duplication of diagnostic materials.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 40:1299.96.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998).

Chapter 4. Fees and Costs

Subchapter A. General Provisions

§405. Payments Nonrefundable

Except as may be expressly provided by these rules, all fees and costs paid to the board shall be nonrefundable in their entirety. All licenses renewed for two years shall be paid in full whether the licensee intends to retire within the two-year period or not.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 24:1115 (June 1998).

Subchapter C. Fees for Dentists

§415. Licenses, Permits, and Examinations

For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

1.	Examination and licensing of dental applicant	$500
2. - 11.	...	

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998).

Subchapter D. Fees for Dental Hygienists

§419. Licenses, Permits, and Examinations

For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

1.	Examination and licensing of dental hygienist applicant	$200
2. - 8.	...	

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998).

Chapter 5. Dental Assistants

§502. Authorized Duties of Expanded Duty Dental Assistants

A. A person licensed to practice dentistry in the state of Louisiana may delegate to any expanded duty dental assistant any chairside dental act that said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient and must be reversible in nature. Furthermore, the act must be under the direct supervision of the treating dentist. However, a dentist may not delegate to an expanded duty dental assistant:

1. periodontal screening and probing, or subgingival exploration for hard and soft deposits and sulcular irrigations;

2. the removal of calculus, deposits or accretions from the natural and restored surfaces of teeth or dental implants in the human mouth using hand, ultrasonic, sonic, or air polishing instruments;

3. root planing or the smoothing and polishing of roughened root surfaces using hand, ultrasonic, or sonic instruments;

4. placement and removal of antimicrobial impregnated fibers;

5. comprehensive examination or diagnosis and treatment planning;

6. a surgical or cutting procedure on hard or soft tissue including laser and micro abrasion reduction of tooth material;

7. the prescription of a drug, medication, or work authorization;

8. the taking of an impression for a final fixed or removable restoration or prosthesis;

9. the final placement and intraoral adjustment of a fixed appliance;

10. the final placement and intraoral or extraoral adjustment of a removable appliance;

11. the making of any intraoral occlusal adjustment;

12. the performance of direct pulp capping or pulpotomy;

13. the placement or finishing of any final restoration;

14. the final placement of orthodontic bands or brackets except in indirect bonding procedures in which the dentist has either performed the final placement of the brackets on the model or when the dentist has written a detailed prescription to the laboratory for placement of the bracket;

15. the administration of a local anesthetic, parenteral, Intravenous (IV), inhalation sedative agent or any general anesthetic agent; and

16. placement of pit and fissure sealants.

B. The delegating dentist shall remain responsible for any dental act performed by an expanded duty dental assistant.

C. Certified expanded duty dental assistants may not hold themselves out to the public as authorized to practice dentistry or dental hygiene.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 21:569 (June 1995), LR 22:793 (August 1996), LR 22:1217 (December 1996), LR 24:1115 (June 1998).

§503. Guide to Curriculum Development for Expanded Duty Dental Assistants

A. Cognitive Objectives. Before becoming registered to perform expanded duty dental assistant functions, dental assistants should be tested on the reasons for doing these procedures, the criteria for correct performance of these procedures, and the effects of improper performance of these procedures. The dental assistant shall be familiar with the state Dental Practice Act and the rules and regulations governing

dental auxiliaries. This testing shall be included within at least 30 hours of instruction.

B. The following is a model outline for the expanded duty dental assistant course. The hours are to be allocated by the instructor in accordance with current law:

1. introduction: what is an expanded duty dental assistant?;

2. jurisprudence: legal duties of auxiliaries; limitation of auxiliary services; responsibility of dentists for all service provided under dentist's supervision; responsibility of auxiliaries to perform only those functions that are legally delegated; penalties for violation of Dental Practice Act; and mechanism to report to the board violations of dentists and/or auxiliaries;

3. infection control and prevention of disease transmission; dental assistants' responsibilities in upholding universal barrier techniques; and OSHA rules;

4. handling dental emergencies;

5. charting;

6. oral anatomy; morphology of the teeth; and medical and dental history for the dentist's review (vital signs, drug evaluation, medical laboratory reports, ascertaining the patient's chief dental problem);

7. overview of dental materials: cavity liners, temporary crown materials, periodontal dressings, post-surgical packs and acid-etch materials;

8. coronal polishing: rationale, materials, techniques and contraindications;

9. lab on coronal polishing and performance evaluation; half of the lab period shall be spent practicing on typodonts while the second half shall be spent practicing on partners;

10. lecture on use of gingival retraction cords; types of cords placement; and removal of cords.

11. lab on placement and removal of retraction cords; and performance evaluation-lab period shall be practicing on mannequins;

12. lab on placement of cavity liners; placement of temporary restorations; fabrications and placement of temporary crowns; placement of periodontal dressings; placement of post-surgical packs; performance of acid-etch techniques; placement and removal of wedges and matrices; and performance evaluation;

13. lecture on monitoring nitrous oxide/oxygen ($N_20/0_2$) sedation;

14. Cardiopulmonary Resuscitation Course "C," Basic Life Support for Health Care Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course; this course may count for three hours of instruction provided this course has been successfully completed within six months prior to certification;

15. clinical exam instructions;

16. clinical and written exams.

C. All applicants for expanded duty dental assistant certificate confirmation must successfully complete a course in x-ray function and safety approved by the Louisiana State Board of Dentistry. Any dental assistant who may have been grandfathered in 1984 with the amendment to R.S. 37:792 must still take a radiology course as described herein in order to seek the certificate confirmation as an expanded duty dental assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 22:22 (January 1996), LR 24:1115 (June 1998).

§507. High School Diploma Requirement

Effective January 1, 1998, all applicants for expanded duty dental assistant certificate confirmation shall present satisfactory documentation evidencing their graduation from an accredited high school or receipt of a general equivalency diploma (GED).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1116 (June 1998).

Chapter 7. Dental Hygienists

§701. Authorized Duties

A. Dental hygienists are expressly authorized to perform the procedure referred to as an *oral prophylaxis*, which is defined as the removal of plaque, calculus and stains from the exposed and unexposed surfaces of the teeth by scaling and polishing as a preventive measure for the control of local irritational factors.

B. A person licensed to practice dentistry in the state of Louisiana may delegate to any dental hygienist any chairside dental act which said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient. Furthermore, the act must be under the direct on-premises supervision of the treating dentist. However, dental hygienists who perform authorized duties in any public institution or school may perform authorized duties under the general supervision of a licensed dentist. A dentist may not delegate to a dental hygienist:

1. comprehensive examination or diagnosis and treatment planning;

2. a surgical or cutting procedure on hard or soft tissue including laser and micro abrasion reduction of tooth material;

3. the prescription of a drug, medication, or work authorization;

4. the taking of an impression for a final fixed or removable restoration or prosthesis;

5. the final placement and intraoral adjustment of a fixed appliance;

6. the final placement and intraoral or extraoral adjustment of a removable appliance;

7. the making of any intraoral occlusal adjustment;

8. the performance of direct pulp capping or pulpotomy;

9. the placement or finishing of any final restoration except for the polishing of an amalgam restoration;

10. the final placement of orthodontic bands or brackets except in indirect bonding procedures in which the dentist has either performed the final placement of the brackets on the model or when the dentist has written a detailed prescription to the laboratory for placement of the bracket; and

11. the administration of local anesthetic, parenteral, Intravenous (IV), inhalation sedative agent, or any general anesthetic agent (exception: see §710, "Administration of Local Anesthesia for Dental Purposes").

C. The delegating dentist shall remain responsible for any dental act performed by a dental hygienist.

D. Registered dental hygienists may not hold themselves out to the public as authorized to practice dentistry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998).

§706. Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

1. has satisfactorily passed an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the jurisprudence affecting same;

2. - 17. ...

18. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus and Hepatitis B Virus, and provide a notarized certificate of health from a medical doctor relative to his/her physical and mental condition;

19. has completed continuing education equivalent to the state of Louisiana's for the two years prior to applying for licensure by credentials.

B. The applicant must also:

1. show or provide a sworn affidavit that there are no unresolved complaints against him/her;

2. show that his/her professional liability insurance has never been revoked, modified, or nonrenewed;

3. show proof that he/she has not failed the Louisiana State Board of Dentistry clinical licensing examination within the preceding 10 years.

C. Applicants must also meet those requirements set forth in R.S. 37:764 and LAC 46:XXXIII.103.

D. Further, applicants must be in compliance with or not found guilty of any violations of R.S. 37:775 and/or R.S. 37:777.

E. Regardless of the applicant's compliance with the foregoing requirements, the board may refuse to issue a dental or dental hygiene license based on the applicant's credentials for any reason listed in R.S. 37:775 or R.S. 37:777.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998).

Chapter 13. Dental Laser and Air Abrasion Utilization

§1305. Air Abrasion Units

Utilization of air abrasion units by licensed dental hygienists and dental auxiliaries is prohibited. However, this does not prevent the utilization of air polishing units by licensed dental hygienists and dental auxiliaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1117 (June 1998).

Chapter 14. Rulemaking

§1401. Scope of Chapter

The rules of this Chapter govern the board's process to consider petitions from interested persons relative to the adoption, amendment, repeal, or applicability of any statutory provision, rule, or order of the board in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1322 (October 1993), LR 24:1117 (June 1998).

§1403. Forms

All petitions requesting the adoption, amendment, repeal, or applicability of a rule, statutory provision, or order of the board, shall be submitted on plain white, letter size (8½" by 11") bond; with margins of at least 1 inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced; shall bear the name, address, and phone number of the person requesting the action; and shall also state the complete and full name of each person(s), organization, or entity the requester represents along with sufficient information to identify and fully describe said person(s), organization, or entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1322 (October 1993), amended LR 24:1117 (June 1998).

Chapter 16. Continuing Education Requirements

§1607. Exemptions

A. Continuing education requirements shall not apply to:

1. - 2. ...

3. dentists in the first calendar year of their graduation from dental school;

4. dental hygienists in the first calendar year of their graduation from dental hygiene school.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661(June 1994), amended LR 24:1117 (June 1998).

Chapter 16. Continuing Education Requirements

§1611. Continuing Education Requirements for Relicensure of Dentists

A. Unless exempted under §1607, each dentist shall complete a minimum of 20 hours of continuing education during each calendar year for the renewal of his/her license to practice dentistry. Dentists whose licenses are renewed for a two-year period are allowed to accumulate 40 hours over the two-year period.

B. ...

C. No more than 10 of the required 20 hours can be completed from the following:

1. - 2. ...

3. three credit hours for successful completion of

Cardiopulmonary Resuscitation Course "C", Basic Life Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course. When being audited for compliance with cardiopulmonary resuscitation course completion, a photocopy of the CPR card evidencing successful completion of the course for each year shall be appended to the form.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 20:661(June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 24:1117 (June 1998).

§1613. Continuing Education Requirements for Relicensure of Dental Hygienists

A. Unless exempted under §1607, each dental hygienist shall complete a minimum of 12 hours of continuing education during each calendar year for the renewal of his/her license to practice dental hygiene. Dental hygienists whose licenses are renewed for a two-year period are allowed to accumulate 24 hours over the two-year period.

B. ...

C. No more than six of the required 12 hours can be completed from the following:

1. - 2. ...

3. three credit hours for successful completion of Cardiopulmonary Resuscitation Course "C", Basic Life Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course. When being audited for compliance with cardiopulmonary resuscitation course completion, a photocopy of the CPR card evidencing successful completion of the course for each year shall be appended to the form.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 20:661 (June 1994), amended LR 21:570 (June 1995), LR 22:24 (January 1996), LR 22:1217 (December 1996), LR 23:1526 (November 1997), LR 24:1118 (June 1998).

§1615. Approved Courses

A. Courses sponsored or approved by the following organizations shall be accepted by the board:

1. - 2. ...

3. Academy of General Dentistry courses when set forth on official documentation;

4. - 9. ...

B. The following standards represent minimum criteria to which component societies, as referred to in §1615.A.7 of this rule, should adhere to if they wish the board to allow the participants to receive continuing education credits.

1. Each sponsoring organization will be responsible for developing its own specific policies for accreditation of continuing education programs and/or activities, and awarding credit hours. These policies must be filed with the board. Satisfactory documentation evidencing approval of continuing education courses must be kept by the sponsoring or approving organization on file for a minimum of four years after the presentation of the course.

2. The program shall be under the continuous guidance of an administrative authority and/or individual responsible for its quality, content, and ongoing conduct.

a. Each program or activity must have specific educational objectives or goals that relate to the dental as well as the overall health care needs of the public and/or the interest and needs of the dental profession. The content of the program will be directed at achieving the stated objectives or goals.

b. The instructor or instructors in charge of the program or activity must be qualified by education to provide instruction in the relevant subject matter.

c. Facilities selected for each activity must be appropriate to accomplish:

i. the educational methods being used;

ii. the stated educational objectives or goals.

C. In general, continuing education activities shall be made available to all dental healthcare workers. The board does recognize that facilities and the number of instructors may limit the number of participants.

D. Clinical credit will only be given to lectures and/or participation programs or activities that deal with the actual delivery of dental services to the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 20:662 (June 1994), amended LR 22:24 (January 1996), LR 24:1118 (June 1998).

Chapter 17. Licensure Examinations

§1701. Scope of Chapter

This Chapter shall describe all procedures relative to the administration of the clinical licensing examinations for persons wishing to practice dentistry or dental hygiene in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998).

§1703. Candidate's Manual for the Dental Licensure Examination of the Louisiana State Board of Dentistry

This manual is too voluminous to print in LAC 46:XXXIII. Section 1703 is intended to put the public on notice that the board utilizes examination manuals which are revised every year. A copy is on file with the Office of the State Register; and copies may be obtained from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998).

§1705. Candidate's Manual for the Dental Hygiene Licensure Examination of the Louisiana State Board of Dentistry

This manual is too voluminous to print in LAC 46:XXXIII. Section 1705 is intended to put the public on notice that the board utilizes examination manuals which are revised every year. A copy is on file with the Office of the State Register; and copies may be obtained from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998).

§1707. Religious Obligations

There will be no exceptions relative to religious obligations in the conducting of the clinical licensing examinations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998).

§1709. Examination of Dentists

A. Any person desiring to be licensed as a dentist shall apply to the board to take the licensure examination and shall verify the information required on the application by oath. The application shall include two recent photographs. There shall be an application fee set by the board not to exceed $600 which shall be nonrefundable. There shall also be an examination fee set by the Louisiana State University School of Dentistry which shall not exceed $200 and which may be refundable if the applicant is found ineligible to take the examination.

B. An applicant shall be entitled to take the examinations required in this Section to practice dentistry in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, or any other nationally recognized accrediting agency; and
4. has successfully completed the National Board of Dental Examiners Dental Examination within 10 years of the date of application.

C. To be licensed as a dentist in this state, an applicant must successfully complete the clinical licensing examination.

D. The board is expressly authorized to utilize the services of other Louisiana licensed dentists to facilitate the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998).

§1711. Examination of Dental Hygienists

A. Any person desiring to be licensed as a dental hygienist shall apply to the board to take the licensure examination and shall verify the information required on the application by oath. The application shall include two recent photographs of the applicant. There shall be a nonrefundable application fee not to exceed $400, and a clinical fee payable to the Louisiana State University School of Dentistry which shall not exceed $100 and which may be refundable if the applicant is found ineligible to take the examination.

B. An applicant shall be entitled to take the examinations required in this Section to practice dental hygiene in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental hygiene college or school approved by the board or accredited by the Commission on Accreditation of the American Dental Association or its successor agency; and
4. has successfully completed the National Board of Dental Hygiene Examiners Dental Examination within 10 years of the date of application.

C. To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dental hygiene;
2. a practical or clinical examination which shall test the competency of the applicant's ability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998).

C. Barry Ogden
Executive Director

9806#023

RULE

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

Medicaid—Eligibility of Aliens

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of section 401 of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) as amended by the Balanced Budget Act of 1997 (P.L. 105-33) regarding Medicaid eligibility for noncitizens.

The state elects to provide regular Medicaid coverage to *optional qualified aliens* who were in the United States prior to August 22, 1996, who meet all eligibility criteria.

Qualified Aliens entering the United States on or after August 22, 1996, are not eligible for Medicaid for five years after entry into the United States. Such *qualified aliens* are eligible for emergency services only. Upon expiration of the five-year period, coverage for regular Medicaid services shall be considered if the *qualified alien* meets all eligibility criteria.

David W. Hood
Secretary

9806#069

RULE

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

Psychiatric Services for Recipients Under Age 22

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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 rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule to provide an outreach program to enhance access to appropriate psychiatric services for Medicaid recipients under the age of 22. Admitting physicians will be required to contact the bureau or its designee to provide notification of a psychiatric hospital admission prior to the admission of children under 22. The bureau or its designee will follow the following procedure.

1. On-site visits will be made to review recipients' medical charts.
2. A face-to-face interview with recipient, family and/or treating physicians.
3. Level of need and the availability of community resources will be evaluated and findings shared with the treating physician and hospital treatment team.

David W. Hood
Secretary

9806#076

RULE

Department of Insurance
Office of the Commissioner

Regulation 63—Prohibitions on the Use of
Medical Information and Genetic Test Results

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the commissioner of Insurance hereby adopts Regulation 63. The regulation establishes the statutory prohibitions on the use of prenatal tests, genetic tests, and related genetic test information by health insurers, third party administrators, and insurance agents.

Rule

Section 1. Purpose

The purpose of this regulation is to establish the statutory prohibitions on the use of medical information including pregnancy tests, genetic tests and related genetic test information by health insurers, third-party administrators, and insurance agents.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner of Insurance under the Administrative Procedure Act and R.S. 22:3, 22:10, 22:2014, 22:2002(7), 22:214(22) and (23), 22:213.6, and 22:213.7 of the *Insurance Code*.

Section 3. Definitions

Collection—obtaining a DNA sample or samples for the purpose of determining inherited or individual characteristics that can be utilized to predict the development of medical conditions in the future. *Collection* shall not mean diagnostic or medical treatment information about an existing medical condition or the prior medical condition of a person applying for or being covered by a health benefit plan.

Compulsory Disclosure—any disclosure of genetic information mandated or required by federal or state law in connection with a judicial, legislative, or administrative proceeding.

DNA—deoxyribonucleic acid including mitochondrial DNA, complementary DNA, as well as any DNA derived from ribonucleic acid (RNA). *DNA* shall not mean any medical procedure or test utilized in the practice of medicine for the purpose of diagnosing or treating a medical illness or health related condition.

Disclose—to convey or to provide access to genetic information to a person other than the individual.

Family—includes an individual's blood relatives and any legal relatives, including a spouse or adopted child, who may have a material interest in the genetic information of the individual. For purposes of providing individual or group health care coverage, the term *family* shall not be used to prevent the collection of reasonable medical information about individuals applying for health insurance coverage to perform medical underwriting based on existing or past medical conditions of those persons being insured, except *genetic information* as defined herein.

Family History/Pedigree—the medical history of blood relatives of an individual that is used to predict the possibility of developing a medical condition in the future. The term shall not include the medical history of an insured or applicant for coverage under a health benefit plan.

Genetic Analysis—the process of characterizing genetic information from a human tissue sample and does not include the performance of medical tests, including but not limited to blood tests, in the diagnosis or treatment of a medical condition.

Genetic Characteristic—any gene or chromosome, or alteration thereof, that is scientifically or medically believed to cause a disease, disorder, or syndrome, or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome. The term shall not apply to identification or disclosure of an individual's gender for the purposes of obtaining or maintaining insurance or establishing insurance rates.

Genetic Information—all information about genes, gene products, inherited characteristics, or family history/pedigree

that is expressed in common language. *Genetic information* does not include the medical history of an individual insured or applicant for health care coverage.

Genetic Test—any test for determining the presence or absence of genetic characteristics in an individual, including tests of nucleic acids, such as DNA, RNA, and mitochondrial DNA, chromosomes, or proteins in order to diagnose or identify a genetic characteristic. The determination of a genetic characteristic shall not include any diagnosis of the presence of disease, disability, or other existing medical condition.

Health Benefit Plan—any health insurance policy, plan, or health maintenance organization subscriber agreement issued for delivery in this state under a valid certificate of authority and does not include life, disability income, or long-term care insurance.

Individual—the source of a human tissue sample from which a DNA sample is extracted or genetic information is characterized.

Individual Identifier—a name, address, social security number, health insurance identification number, or similar information by which the identity of an individual can be determined with reasonable accuracy, either directly or by reference to other available information. Such term does not include characters, numbers, or codes assigned to an individual or a DNA sample that cannot singly be used to identify an individual.

Insurer—any hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, health and accident insurance policy, or any other insurance contract of this type, including a group insurance plan, or any policy of group, family group, blanket, or franchise health and accident insurance, a self-insurance plan, health maintenance organization, and preferred provider organization, including insurance agents and third-party administrators, which delivers or issues for delivery in this state an insurance policy or plan. The term *insurer* does not include any individual or entity that does not hold a valid certificate of authority to issue, for delivery in this state, an insurance policy or plan. A certificate of authority to issue an insurance policy or plan for delivery shall not include a license or certificate to act as a preferred provider organization, insurance agent, or third-party administrator.

Person—all persons other than the individual or authorized agent acting on behalf of the individual, who is the source of a tissue sample and shall include a family, corporation, partnership, association, joint venture, government, governmental subdivision or agency, and any other legal or commercial entity. This shall not prevent any licensed insurance agent duly authorized to act on behalf of the individual, from completing and submitting health insurance application documents required to apply for coverage under a health policy or plan.

Research—scientific investigation that includes systematic development and testing of hypotheses for the purpose of increasing knowledge.

Storage—retention of a DNA sample or of genetic information for an extended period of time after the initial testing process. The term does not include medical history information about insureds or persons applying for coverage under a health benefit plan.

Section 4. Applicability and Scope

Except as otherwise specifically provided, the requirements of this regulation apply to all issuers of health care policies or contracts of insurance, or health maintenance organization subscriber agreements issued for delivery in the state of Louisiana. The requirements of this regulation shall not impinge upon the normal practice of medicine or reasonable medical evaluation of an individual's medical history for the purpose of providing or maintaining health insurance coverage. The requirements of this regulation address the use of medical information, including use of genetic tests, and genetic information for the purpose of issuing, renewing, or establishing premiums for health coverage. The provisions of this regulation do not apply to any actions of an insurer or third parties dealing with an insurer taken in the ordinary course of business in connection with the sale, issuance or administration of a life, disability income, or long-term care insurance policy.

Section 5. Prohibitions on the Use of Pregnancy Test Results

Any insurer shall be authorized to request medical information that verifies the pregnancy of an insured or individual applying for coverage under a health benefit plan. The results of any prenatal test, other than the determination of pregnancy, shall not be used as the basis to:

1. terminate, restrict, limit, or otherwise apply conditions to the coverage under the policy or plan, or restrict the sale of the policy or plan in force;
2. cancel or refuse to renew the coverage under the policy or plan in force;
3. deny coverage or exclude an individual or family member from coverage under the policy or plan in force;
4. impose a rider that excludes coverage for certain benefits or services under the policy or plan in force;
5. establish differentials in premium rates or cost sharing for coverage under the policy or plan in force;
6. otherwise discriminate against an insured individual or insured family member in the provision of insurance.

Section 6. Requirements for Release of Genetic Test and Related Medical Information

A. A general authorization for the release of medical records or medical information shall not be construed as an authorization for disclosure of genetic information. No insurer shall seek to obtain genetic information from an insured or applicant or from a DNA sample, without first obtaining written informed consent from the individual or authorized representative. To be valid, an authorization to disclose the results of a genetic test shall:

1. be in writing, signed by the individual and dated on the date of such signature;
2. identify the person permitted to make the disclosure;
3. describe the specific genetic information to be disclosed;
4. identify the person to whom the information is to be disclosed;
5. describe with specificity the purpose for which the disclosure is being made;

6. state the date upon which the authorization will expire, which in no event shall be more than 60 days after the date of the authorization;

7. include a statement that the authorization is subject to revocation at any time before the disclosure is actually made or the individual is made aware of the details of the genetic information;

8. include a statement that the authorization shall be invalid if used for any purpose other than the described purpose for which the disclosure is made.

B. A copy of the authorization shall be provided to the individual. An individual may revoke or amend the authorization in whole or in part, at any time. In complying with the provisions of this Section, the record holder is responsible for assuring only authorized information is released to insurers with respect to medical records that contain genetic information. The requirements of this Section shall not act to impede or otherwise impinge upon the ability of the patient's attending physician to provide appropriate and medically necessary treatment or diagnosis of a medical condition.

Section 7. Prohibitions on the Use of Medical Information and Genetic Test Results

A. No insurer shall require an applicant for coverage under a policy or plan, or an individual or family member who is presently covered under a policy or plan, to be the subject of a genetic test, release genetic test information, or to be subjected to questions relating to the medical conditions of persons not being insured under such policy or plan.

B. All insurers shall, in the application or enrollment information required to be provided by the insurer to each applicant concerning a policy or plan, include a written statement disclosing the rights of the applicant. Such statements shall be printed in 10-point type or greater with a heading in all capital letters that states: YOUR RIGHTS REGARDING THE RELEASE AND USE OF GENETIC INFORMATION. Disclosure statements must be approved by the Department of Insurance as complying with the requirements of R.S. 22:213.7 prior to utilization.

C. The results of any genetic test, including genetic test information, shall not be used as the basis to:

1. terminate, restrict, limit, or otherwise apply conditions to the coverage of an individual or family member under the policy or plan, or restrict the sale of the policy or plan to an individual or family member;

2. cancel or refuse to renew the coverage of an individual or family member under the policy or plan;

3. deny coverage or exclude an individual or family member from coverage under the policy or plan;

4. impose a rider that excludes coverage for certain benefits or services under the policy or plan;

5. establish differentials in premium rates or cost sharing for coverage under the policy or plan;

6. otherwise discriminate against an individual or family member in the provision of insurance.

Section 8. General Provisions

A. The requirements of this Section shall not apply to the genetic information obtained:

1. by a state, parish, municipal, or federal law enforcement agency for the purposes of establishing the identity of a person in the course of a criminal investigation or prosecution;

2. to determine paternity;

3. to determine the identity of deceased individuals;

4. for anonymous research where the identity of the subject will not be released because it is confidential;

5. pursuant to newborn screening requirements established by state or federal law;

6. as authorized by federal law for the identification of persons;

7. by the Department of Social Services or by a court having juvenile jurisdiction as set forth in *Children's Code* Article 302 for the purposes of child protection investigations or neglect proceedings.

B. An applicant/insured's genetic information is the property of the applicant/insured. No person shall retain genetic information without first obtaining authorization from the applicant/insured or a duly authorized representative, unless retention is:

1. for the purposes of a criminal or death investigation or criminal or juvenile proceeding;

2. to determine paternity.

C. For purposes of R.S. 22:213.7, any person who acts without proper authorization to collect a DNA sample for analysis, or willfully discloses genetic information without obtaining permission from the individual or patient as required under this regulation, shall be liable to the individual for each such violation in an amount equal to:

1. any actual damages sustained as a result of the unauthorized collection, storage, analysis, or disclosure, or $50,000, whichever is greater;

2. treble damages, in any case where such a violation resulted in profit or monetary gain;

3. the costs of the action together with reasonable attorney fees as determined by the court, in the case of a successful action to enforce any liability under R.S. 22:213.7.

D. Any person who, through a request, the use of persuasion, under threat, or under a promise of a reward, willfully induces another to collect, store or analyze a DNA sample in violation; or willfully collects, stores, or analyzes a DNA sample; or willfully discloses genetic information in violation of R.S. 22:213.7 shall be liable to the individual for each such violation in an amount equal to:

1. any actual damages sustained as a result of the collection, analysis, or disclosure, or $100,000, whichever is greater;

2. the costs of the action together with reasonable attorney fees as determined by the court, in the case of a successful action under R.S. 22:213.7.

E. The discrimination against an insured in the issuance, payment of benefits, withholding of coverage, cancellation, or nonrenewal of a policy, contract, plan or program based upon the results of a genetic test, receipt of genetic information, or a prenatal test other than one used for the determination of pregnancy shall be treated as an unfair or deceptive act or practice in the business of insurance under R.S. 22:1214.

F. This regulation shall be effective June 20, 1998.

James H. "Jim" Brown
Commissioner of Insurance

9806#002

RULE

Department of Insurance
Office of the Commissioner

Regulation 64—Vehicle Mechanical
Breakdown Insurers Cancellation Provisions

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by R.S. 22:3 and R.S. 22:1811, the commissioner of Insurance hereby adopts the following regulation to implement standards for the cancellation of Vehicle Mechanical Breakdown (VMB) contracts. The purpose of the regulation is to protect the interests of policyholders and to promote consumer awareness.

Regulation 64
Cancellation Provisions for Vehicle
Mechanical Breakdown Insurers

Section 1. Purpose

The purpose of this regulation is to implement standard cancellation requirements in all vehicle mechanical breakdown contracts, and to ensure that all such contracts (hereafter sometimes referred to as "policies") issued, delivered or used in Louisiana are drafted in a more consistent and streamlined manner.

Section 2. Authority

This regulation is promulgated under the authority granted the commissioner by R.S. 22:1811, R.S. 22:3 and R.S. 49:950 et seq.

Section 3. Applicability and Scope

This regulation shall apply to all vehicle mechanical breakdown contracts that are in force and to insurers issuing, for delivery or use, vehicle mechanical breakdown contracts in Louisiana.

Section 4. Cancellation Standards

The following standards shall govern the requirements for the cancellation provisions of vehicle mechanical breakdown contracts.

1. All Mechanical Breakdown Insurance contracts having terms of greater than six months shall be cancelable and refundable upon request of the insured.

2. The refund method to be used shall be the sum of the digits (Rule of 78s) or a refund method that will be more favorable to the insured.

3. The return factor is determined by the number of unused months or the number of unused miles, and shall be based on the full premium (including commissions) paid by the insured.

a. The number of months shall mean the number of months from the effective date of the policy until the expiration date of the policy.

b. The number of miles shall mean the sum of the number of miles on the odometer at the time of purchase and the policy mileage limit.

4. A cancellation fee, not to exceed $50, may be charged, provided such fee is disclosed to the purchaser at the time of policy purchase.

5. The method of refund and any cancellation fee, shall be fully disclosed to the insured at or before the time of policy purchase by having such information printed in the policy form and the policy application, which shall be agreed to in writing, by the insured.

6. In calculating any refund requested by the insured, no deduction shall be allowed for any claim that has been paid under the contract being canceled.

7. If cancellation is requested in writing by the insured within 30 days from the date of purchase, full refund, minus the cancellation fee, if any, shall be made.

Section 5. Failure to Comply

In addition to any other penalties provided by the Louisiana Insurance Code relating to the regulation of Vehicle Mechanical Breakdown (VMB) insurers, any VMB insurer found to have violated the requirements of this regulation, may be issued a cease and desist order pursuant to R.S. 22:1810.

Section 6. Severability

If any section or provision of this regulation is held invalid, such invalidity shall not affect other sections or provisions which can be given effect without the invalid section or provision, and for this purpose the sections and provisions of the regulation are severable.

Section 7. Effective Date

This regulation shall take effect on June 20, 1998.

James H. "Jim" Brown
Commissioner of Insurance

9806#059

RULE

Department of Justice
Office of the Attorney General

Nonprofit Hospital Acquisitions
(LAC 48:XXV.Chapter 3)

In accordance with R.S. 49:950 et seq., the Office of the Attorney General has adopted the following rule governing the review and approval of nonprofit hospital acquisitions. The purpose of the rule is to set forth procedures for the review and authorization of nonprofit hospital acquisitions pursuant to R.S. 40:2115.11 through 2115.22.

Title 48
PUBLIC HEALTH—GENERAL
Part XXV. Mergers, Acquisitions, and Re-Organization
Chapter 3. Nonprofit Hospital Acquisitions: Authorization for the Attorney General to Review Nonprofit Hospital Acquisitions

§301. Purpose

A. These rules are adopted in accordance with the public interest of assuring the continued existence of accessible,

affordable health care facilities that are responsive to the needs of the communities in which they exist. In that regard, the state has a responsibility to protect the public interest in nonprofit hospitals by making certain that the charitable assets of those hospitals are managed prudently pursuant to the provisions of R.S. 40:2115.11 through 2115.22.

B. These rules are adopted to further Louisiana's goal of controlling health care costs and improving the quality of and access to health care for its citizens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1123 (June 1998).

§303. Definitions

A. As used within the rules:

Acquirer—any legal entity to which the nonprofit hospital plans to sell, merge, or otherwise contract, along with each affiliate, parent, and/or subsidiary which it directly or indirectly controls, manages, owns, or operates. The *acquirer* may be another nonprofit hospital.

Affiliate—any or all of the following: corporation; partnership; sole proprietorship; joint venture; trust; natural person; or any other entity, whether existing for commercial or noncommercial purposes, however organized, in which any person or entity owning, directly or indirectly or beneficially, 3 percent of the acquirer owns directly, or indirectly, or beneficially, 50 percent or more of the affiliates.

Attachment—each document or object sent or provided with any document or object, and includes each document or object sent with it, whether it be a letter, memorandum, contract, document or other writing or object.

Certified Mail—uninsured first class mail whose delivery is recorded by having the addressee sign for it.

Comment—a written document offering explanation, illustration, criticism, or personal opinion.

Days—consecutive calendar days.

Department—the Louisiana Department of Justice, Office of the Attorney General.

Director—the director of the Civil Division.

Documents or *Document*—all writing or any other record of any kind, including originals and each and every non-identical copy (if different from the original for any reason). *Document(s)* includes, but is not limited to:

a. correspondence, memoranda, notes, diaries, calendars, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, and interoffice and intra office communications;

b. notations (of any sort) of conversations, telephone calls, meetings, and other communications;

c. bulletins, printed matter, computer printouts, computer generated output, teletypes, telefax, facsimiles, invoices, worksheets, drafts, alterations, modifications, changes, and amendments of any kind;

d. photographs, charts, maps, graphs, sketches, microfiche, microfilm, videotapes, video recordings, and motion pictures; and

e. any electronic or mechanical records or tapes, cassette, diskettes, audio recordings, computer hard drives and other means of storing information.

Expert—one who is knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience. For example, any economist, accountant, financial advisor, investment banker, broker, valuation specialist, or other person who is consulted, relied upon, retained, or used by the nonprofit and/or acquirer.

Financial Statement—

a. any compilation or statement (audited, unaudited, or draft) of the nonprofit's financial position. *Financial statements* (regardless of precise terminology) include, but are not limited to:

i. tax returns;
ii. balance sheets;
iii. statements of income and expenses;
iv. statements of profit and loss;
v. statements of stockholders' equity; and
vi. statements of changes in financial position;

b. each and every financial statement should include each and every related footnote of the respective financial statement.

Foundation—a permanent fund established and maintained by contributions for charitable, educational, religious, or benevolent purposes.

Nonprofit Hospital or *Nonprofit Entity*—any, some, or all of the firms, companies, or entities which the notifying nonprofit hospital, any of its subsidiaries, affiliates (see *affiliate* definition), firms, companies or entities may control, manage, own or operate. The nonprofit should be the entity filing the notice with the attorney general.

Objection—a written document offered in opposition to the approval of an application which states the reason, grounds, or cause for expressing opposition.

Person—any natural person, public or private corporation (whether or not organized for profit), governmental entity, partnership, association, cooperative, joint venture, sole proprietorship, or other legal entity. With respect to the nonprofit and/or acquirer, the term *person* also includes any natural person acting formally or informally as an employee, officer, director, agent, attorney, or other representative of the nonprofit and/or acquirer.

Persons on Record—persons submitting written documentation to the director, by certified mail, stating objections, comments, or requests for notification of actions by the department involving a particular application. Persons on record status must be renewed by written request, sent by certified mail to the director, prior to December 31 of each calendar year.

Transaction or *Proposed Transaction*—the proposed sale, merger, or other agreement between the nonprofit hospital and the acquirer which resulted in the submission of the notice to the attorney general pursuant to R.S. 40:2115.11 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1124 (June 1998).

§305. Notice

A. Nonprofit persons who are parties to a transaction shall give the attorney general at least 30 days notice prior to the anticipated closing of the intended transaction.

B. The written notice shall include all of the following information:

1. the names, addresses and telephone numbers of the parties to the intended transaction;

2. the names, addresses and telephone numbers of the attorneys or other persons who represent the parties in connection with the intended transaction;

3. a general summary of the intended transaction;

4. a general description of the assets involved in the intended transaction and the intended use of the assets after the closing of the intended transaction, including any change in the ownership of tangible or intangible assets;

5. a general summary of all collateral transactions that relate to the intended transaction, including the names, addresses and telephone numbers of the parties involved in the collateral transactions; and

6. the anticipated completion date of the intended transaction.

C. Giving notice shall comply with the following format.

1. The notice shall be in writing, which pages shall be numbered and printed on paper measuring 8½ inches by 11 inches. The margins shall not be less than 1 inch on all sides. Unless otherwise required, the notice shall be printed on white paper.

2. Notice shall be sent to the director by certified mail. The director shall receive notice at least 30 days prior to the proposed transaction.

3. Notice shall not be given by facsimile machine.

4. Notice which does not comply with these rules shall not be accepted and will be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1124 (June 1998).

§307. Filing of Applications and Additional Documents

A. Filing of Applications

1. Applications shall be filed by delivering an original and three copies to the director.

2. The filing date of a conforming application shall be the date the department determines the application to be a completed application.

3. No application shall be filed by facsimile machine.

4. Applications filed with the department become property of the state.

5. Applications shall be accompanied with the filing fee as determined by §309 in accordance with R.S. 40:2115.22.

6. The application must include the contents of application.

7. The application shall be submitted to the attorney general on the forms provided and include the information requested therein.

8. The department may at any time request any other supplemental or additional documentation, disclosures, information, etc., as it deems necessary to the evaluation. The applicant shall provide the information not later than 10 days after the date of the request.

9. The application must be in the following format.

a. Applications shall be submitted to the attorney general on the forms provided and in accordance with the instructions therein.

b. Trade secret information shall be printed on goldenrod colored paper to assist in identifying material exempt from the Louisiana Public Records Act.

c. Applications which do not comply with these rules shall not be accepted and will be returned to the applicant.

B. Forms

LOUISIANA ATTORNEY GENERAL'S APPLICATION
REQUEST FOR INFORMATION FORM
For Certain
NONPROFIT MERGERS, SALES, AND ACQUISITIONS

PLEASE CAREFULLY REVIEW THE INSTRUCTIONS AND DEFINITIONS FORM PRIOR TO COMPLETING THIS FORM

1. Name of Nonprofit to be Acquired: Identify each and every nonprofit entity or entities (hereinafter "nonprofit") which is the subject of an impending acquisition in accordance with R.S. 40:2115 et seq.

2. Contact Person for Nonprofit: Provide the full legal name, title, address, telephone and facsimile number for the contact person regarding this Form (this individual will also receive any requests for additional information for documents):

3. Directors and Officers: Identify by full legal name and title each and every director and officer of the nonprofit.

4. Corporate Documents of Nonprofit: Attach as Appendix A, all corporate documents relating to the nonprofit entity and selected entities filing this Request. Include corporate documents of all parents, subsidiaries, or affiliates of the nonprofit. For the purpose of this Request, "corporate documents" means the charter or articles of incorporation, bylaws, and any and all amendments to each corporate document.

5. Name of Acquirer: Identify the proposed acquirer of the nonprofit (hereinafter "acquirer") identified in Request #1. Include in your response the identity of any (a) parent, (b) subsidiary, and/or (c) affiliate of the acquirer.

6. Contact Person for Acquirer: Provide the full legal name, title, address, telephone, and facsimile number of the contact person for the acquirer.

7. Corporate Documents of Acquirer: Attach as Appendix B copies of all corporate documents relating to the acquirer identified in Request #4.

8. Value of Nonprofit Assets: What is the aggregate approximate value of the nonprofit assets to be acquired in the proposed transaction?

9. Description of Proposed Transaction: Attach as Appendix C a detailed description of the proposed transaction, including a detailed explanation of what is to be acquired by the acquirer, what is to be retained by the nonprofit(s), and the resulting funds to be received by the nonprofit(s). This should also include an analysis of the purchase price, based upon the nonprofit's interpretation of the letter of intent or definitive contract. The analysis should begin with the nonprofit's balance sheet, should consider the impact of any fund balances and/or liabilities to be retained by the resulting foundation, and end with a resulting fund balance for the proposed foundation to be created. This analysis should include reasonable estimates for any proposed purchase price adjustments called for in the letter of intent or definitive agreement. The objective of this analysis is to enable the Office of the Attorney General to understand the pricing of the transaction and the capitalization of any resulting foundation.

10. Description of Negotiations of the Transaction: Attach as Appendix D a detailed description of all discussions and negotiations between nonprofit and acquirer resulting in the proposed transaction. This response should include, but not be limited to, a summary outline in date sequence of any and all meetings held with the following parties with respect to the proposed transaction:

(a) With the nonprofit's financial advisors or investment bankers related to the proposed transaction (including, but not limited to, management, committees of the board of directors or meetings of the full board);

(b) With prospective purchasers, networkers, merging partners of the nonprofit (or substantially all of the nonprofit), together with a brief summary of the results of such meetings;

(c) With the ultimate acquirer; and

(d) With other parties deemed significant to the transaction (including, but not limited to, outside experts or other consultants).

11. Closing Date: What is the expected date of closing of the proposed transaction?

12. Governmental Filings: Attach as Appendix E all filings with respect to the proposed transaction, including all amendments, appendices, and attachments, and each report or document provided to each federal, state, or local governmental entity regarding the proposed transaction. Include copies of forms to be provided to each such entity, the answer to information or questions on such forms, and each attachment submitted in connection therewith.

13. Meetings with Governmental Officials: Attach as Appendix F summaries of all meetings with federal, state, or local authorities regarding any filings or documents referenced in Request #12. Also, include each and every document which memorializes or discusses any and all meetings or other communications with the United States Department of Justice, Federal Trade Commission, or any other state, federal or local governmental entity in connection with the proposed transaction.

14. Acquirer's Prior Acquisitions: Identify all prior acquisitions by the proposed acquirer with the last three (3) years, including the following information for each:

(a) Date of Acquisition;
(b) Entity Acquired;
(c) City/State;
(d) Brief Description;
(e) Purchase Price; and
(f) Form of Consideration.

15. Letters of Intent: Attach as Appendix G any and all drafts and final versions of any and all letters of intent, confidentiality agreements, or other documents initiating negotiations, contact, or discussion between the acquirer and nonprofit.

16. Contracts or Purchase Agreements: Attach as Appendix H any and all drafts and final versions of asset purchase agreements, contracts or agreements to purchase the nonprofit by the acquirer. Your response must also include any attachments, amendments, schedules, or appendices to such agreements.

17. Fairness Opinions: Attach as Appendix I any and all fairness opinions analyzing the proposed transaction along with any supplemental analysis prepared by the nonprofit or its experts. Include in your response the name of the company and the person(s) who prepared the opinion, their business telephone numbers and addresses, the agreement or engagement letter with such company or person, and background information regarding the company or person's qualifications.

18. Meeting Minutes and Other Information: Attach as Appendix J the following documents with respect to each meeting, whether regular, special, or otherwise, of the board of directors or board of trustees for each nonprofit or acquirer.

(a) Announcements and the persons to whom the announcements were sent;
(b) Agenda;
(c) Minutes and/or resolutions of the board of directors or board of trustees for each nonprofit entity or acquirer which reflect or discuss the proposed transaction, including those regarding the final vote;
(d) Each written report or document provided to the board or board members, including, but not limited to, each committee report and each expert's report;
(e) Each proposal or document referencing or regarding possible or actual sale, merger, acquisitions, or distribution of assets of any nonprofit entity;
(f) Each presentation to the board or any committee to the board; and
(g) Each attachment to (a) through (f).

19. Valuation Information: Attach as Appendix K each appraisal (with each attachment), evaluation (with each attachment), and similar document (with each attachment) concerning the valuation during the last three (3) fiscal years of the nonprofit entities, their assets, their properties, their worth as a going concern, their market value, or their price for sale. This Request shall include, but not be limited to, any appraisals of the common stock of any for-profit subsidiaries of the nonprofit, any appraisals involving property held by the nonprofit.

20. Information Regarding Other Offers: Attach as Appendix K each appraisal (with each attachment), evaluation (with each attachment), and similar document (with each attachment) concerning any negotiation, proposal, or sale either initiated or received by the nonprofit regarding a sale of all or substantially all of its assets, a merger, a joint venture, a combination, an arrangement, a partnership, an acquisition, an alliance, or a networking relationship, and the dollar value of such proposed transaction.

21. Mission Statement: Attach as Appendix M any and all mission statements of the nonprofit.

22. Press Releases and Related Information: Attach as Appendix N any and all press releases, newspaper articles, radio transcripts, audiotapes and videotapes of any television commercials or reports regarding the proposed transaction and any other offers identified in Request # 20.

23. Financial Records: Attach as Appendix O all of the following for the last six (6) fiscal years for both the nonprofit and acquirer, unless otherwise indicated:

(a) Audited and unaudited financial statements. Audits are sometimes presented in abbreviated form or in fuller form, with detailed supplements. Provide the most detailed form of your audit that is available;

(b) Consolidating statements (balance sheets and income statements for each fiscal year);

(c) Year-to-date internal financial statements for the most recent month-end available during the current year. Be sure that the statements are

comparative (with the same period of the previous fiscal year), otherwise provide last year's internal financial statements for the corresponding period as well;

(d) If separate audited financial statements are prepared for any of your nonprofit members or affiliates, or any parent or subsidiary of the acquirer, please provide those audits, together with comparative year-to-date financial statements for each such member, affiliate, parent or subsidiary;

(e) For the nonprofit only, projected capital expenditure requirements for the next three (3) years, assuming the nonprofit continues to operate as it has been operating;

(f) Each balance sheet, profit and loss statement, statement of change in financial position of the nonprofit, any entity or company it controls, operates, manages, or is affiliated with and also the same information for the acquirer and any entity which you reasonably believe it owns, operates, manages, or controls;

(g) For the nonprofit only, a detailed schedule of operating expenses, unless already provided with the audits;

(h) For the nonprofit only, an analysis (aging) of accounts receivable by major category, of receivables as of the most recent month-end available, indicating the amounts ultimately considered collectable by the nonprofit;

(i) For the nonprofit only, management compensation (salary, bonus, other benefits) for the five (5) officers of the nonprofit receiving the greatest amount of compensation;

(j) Identify any material off-balance sheet assets or liabilities (i.e., any assets or liabilities not reflected on the most recent audited financial statements) and provide documentation concerning such assets or liabilities. Examples of such items would include a significant under-or over-funding in the pension plan or a current litigation judgment not reflected in the most recent audit;

(k) Identify any material contingent assets or liabilities, and the conditions that must occur for any such contingent assets to be realized or for any such contingent liabilities to be incurred; and

(l) Identify all accounting firms, including the name, address, and telephone number of the accountant(s) primarily responsible for accounting and auditing of the entities for the last six (6) years.

24. Foundation Issues:

(a) Attach as Appendix P the detailed written plan of the preservation, protection, and use of any and all proceeds from the dissolution of the nonprofit, or the sale to or merger with the acquirer. State and fully explain whether any money, property, or proceeds resulting from the transaction referred to in your Notice or the operation of the foundation will benefit any director, officer or for-profit person or entity, directly or indirectly. The detailed plan shall include bylaws, a conflict of interest statement, a defined mission, the proposed investment policy, and granting procedures.

(b) Attach as Appendix Q proof that any asset purchase agreement or other contract, by whatever name, does not incorporate or place any restrictions which any for-profit entity may place on the use of charitable or nonprofit funds and any other funds or property, either now or in the future, by any foundation created or endowed to preserve, disburse, or protect the funds.

(c) Attach as Appendix R a report indicating, showing, explaining, and discussing the properties and assets, whether cash, securities, intangible property, and all other property (listing each encumbrance), available for charitable purposes before and after the transaction and showing or discussing what entity or person will control, manage, operate, deploy, and use the charitable or nonprofit properties or assets. Include in your response the full legal name, title, business address, and telephone number of the individual preparing said report.

25. Existing Foundations or Restricted Donations: Attach as Appendix S any and all documents reflecting any existing foundations or other restricted donations, including, but not limited to, trusts that are designated or intended to benefit the current nonprofit. Include a detailed statement setting forth your intention with regard to such restricted donations.

26. Conflict of Interest, Self-Interest, and Self-Dealing Issues:

(a) Attach as Appendix T an affidavit for each officer and director of the nonprofit.

(b) Attach as Appendix U any and all documents reflecting any possible conflict of interest, self-interest, or self-dealing of any board member, officer, or director in connection with the proposed transaction. Such documents shall include evidence of any disclosures or other curative measures taken by the board and any documents suggesting or referencing financial or employment incentives or inducements offered to any board member, director or officer.

(c) Attach as Appendix V each memorandum, report, letter, or other document suggesting or referencing any employment or position (actual or possible) with acquirer for any officer or director of the nonprofit after the transaction is completed, as well as any assets, funds, annuity, deferred compensation or other economic or tangible benefit to be provided, whether or not in exchange for services rendered or to be rendered to any nonprofit or acquirer.

27. Persons Involved in Decision Making of Planning: Attach as Appendix W a list of the full legal names, titles, addresses, and telephone numbers of each and every officer, director, representative, manager, executive, expert or other persons having substantial input, at any phase of decision making or planning, into the decision or plan for the proposed transaction.

28. Market Studies: Attach as Appendix X each market study (and attachments) done for or by a nonprofit, or otherwise received by a nonprofit. Include an analysis of the nonprofit's market share from the perspectives which are normally tracked by the nonprofit board.

29. Registered Agents for Service or Process: Identify the registered agent for service of process, including his or her complete address, for each nonprofit and for the acquirer.

For Nonprofit: _____

_____

_____

For Acquirer: _____

_____

_____

30. Litigation and Proceedings: Attach as Appendix Y copies of any and all complaints, pleadings, memoranda, court orders, settlements, liens or other security interests, and consent decrees filed in litigation in which the nonprofit and/or acquirer was or is a party.

Please include in your response any and all complaints, pleadings, memoranda, orders, settlements, opinions, notices of investigation (including subpoenas, civil investigative demands or other requests for information), of any state, federal, local government department, court, agency, or any other legal proceeding in which the nonprofit and/or acquirer was or is a party.

CERTIFICATION AND VERIFICATION
AFFIDAVIT OF THE NONPROFIT
To be completed by President or Chief Officer

This Requests for Information Form, together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with the instructions and definitions issued by the Attorney General. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete. If copies were submitted in lieu of originals, the documents submitted are true and exact copies. I understand that my obligation to provide information pursuant to this Request shall be continuing in nature and shall forthwith notify the Attorney General, in writing, of any representations that have been made or that might have been made in accordance with this Request which need to be updated, corrected or modified. The copies also are authentic for the purposes of Louisiana law. If copies were submitted, I also agree to retain the originals under may care, custody, and control, and I will not destroy or alter the originals without express written consent of the Attorney General or his appointed designee.

I certify, upon personal knowledge, that the attached form has been completed with true and accurate information, **under penalty or perjury**.

STATE of _____ To be completed by Affiant:
Parish/County: _____
Affiant's Name: _____
Signature: _____ Title: _____
Date: _____ Address:
Sworn and subscribed before me _____
this ____ day of _____, _____
199____ _____

_____ Telephone No.: _____
Notary Public Facsimile No.: _____
My Commission expires: _____

AFFIDAVIT OF OFFICERS AND DIRECTORS

STATE OF _____ SOCIAL SECURITY NO. _____
PARISH/COUNTY OF _____

I, _____, after first being duly sworn, do hereby depose and, upon personal knowledge, state as follows:

1. I am an officer/director (please circle appropriate response) of _____ _____ (insert name of nonprofit).

2. I have been an officer/director (please circle appropriate response) since _____, 199___. Please identify any committees you have served on, the length of service on each committee, and any titles you have held on such committees.

_____
_____
_____
_____

3. My home address is _____
_____
_____

4. My business telephone number is _____. My business facsimile number is _____.

5. I do/do not (circle appropriate response) own stock or options and/or warrants to purchase stock in _____ (Insert name of acquirer) or any parent, subsidiary, or affiliated company.

6. _____ (insert "no one in my immediate family," or the name[s] of family member[s], own(s) stock or options and/or warrants to purchase stock in _____ (insert name of acquirer) or any parent, subsidiary, or affiliated company.

7. I am/am not (circle appropriate response) employed by _____ ___ (insert name of acquirer) or any parent, subsidiary, or affiliate company.

8. _____ (insert " no one in my immediate family" or the name[s] of family member[s] is/are employed by _____ (insert name of acquirer) or any parent, subsidiary, or affiliated company.

9. I will/will not (circle correct response) receive any financial benefit from the sale/merger (circle correct response) of _____ (identify nonprofit to be acquired) to _____ (insert name of acquirer).

10. _____ (insert "no one in my immediate family," or the name[s] of family member[s] will receive any financial benefit from the sale/merger (circle correct response) of _____ (identify nonprofit to be acquired) _____ (insert name of acquirer).

11. I have/have not (circle appropriate response) been contacted or otherwise requested or been offered a position on the _____ (insert name of acquirer) board or any of its subsidiaries, affiliates, or parent companies, or otherwise been offered employment of any sort with _____ _____ (insert name of acquirer) or any of its subsidiaries, affiliates or parent companies.

12. I am/am not compensated for my services as an officer/director (circle appropriate response) of _____ (insert name of nonprofit). If your response is that you are compensated, please state the amount of your compensation per year: _____.

13. Briefly describe your education background:

_____
_____
_____
_____
_____
_____

14. Briefly describe your business or work experience:

_____
_____
_____
_____
_____
_____

15. Explain the reasons why you voted to approve the transaction to merge/sell _____ (insert nonprofit's name) to _____ (insert name of acquirer).

_____
_____
_____
_____
_____
_____

16. Please briefly explain any information you had regarding valuation of _____ (insert nonprofit's name) and other options available to __ _____ (insert nonprofit's name) prior to approving the transaction referenced in Item 15.

_____
_____
_____
_____
_____
_____

17. I do/do not (circle appropriate response) plan to become a director or officer of the foundation or other nonprofit entity to be created from the assets resulting from the sale or merger of _____ (insert nonprofit's name) to _____ (insert name of acquirer). I will/will not (circle appropriate response) receive compensation for my service in such position. If your response is that you will be compensated, please state the amount of the compensation per year: _____

18. I do/do not (circle appropriate response) have any conflict of interest, self-interest, financial interest or other self-dealing with regard to the proposed transaction with _____ (insert name of acquirer). If your answer is yes, please explain such interest in detail.

_____
_____
_____
_____
_____
_____

I certify, upon personal knowledge, that the information in this affidavit is true, accurate, and complete, **under penalty of perjury**.

Affiant's
Signature: _____
Date: _____

Sworn and subscribed
before me this _____
day of _____,
199____

_____
Notary Public
My Commission expires: _____

CERTIFICATION AND VERIFICATION
AFFIDAVIT OF THE ACQUIRER

In order to assist _____ (insert name of nonprofit), _____ _____ (insert name of acquirer) provided information used to complete the Request for Information Form by _____ (insert name of nonprofit). Attached as Exhibit A to this Affidavit are _____'s (insert name of acquirer) responses to the Request for Information Form, together with any and all appendices and attachments thereto. Exhibit A was prepared and assembled under my supervision in accordance with the instructions and definitions and definitions issued by the Attorney General. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and

records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete. If copies were submitted in lieu of originals, the documents submitted are true and exact copies. I understand that my obligation to provide information pursuant to this Request shall be continuing in nature and shall forthwith notify the Attorney General, in writing, of any representations that have been or that might have been made in accordance with this Request which need to be updated, corrected or modified. The copies also are authentic for the purpose of Louisiana law. If copies were submitted, I also agree to retain the originals under my care, custody, and control, and I will not destroy or alter the originals without the express written consent of the Attorney General or his appointed designee.

I certify, upon personal knowledge, that the attached form has been completed with true and accurate information, **under penalty of perjury.**

STATE of _____
Parish/County: _____
Affiant's
Signature: _____
Date: _____
Sworn and subscribed before me
this ____ day of _____,
199____

_____
Notary Public
My Commission expires: _____

To be completed by Affiant:

Name: _____
Title: _____
Address:
_____
_____
_____
Telephone No.: _____
Facsimile No.: _____

LOUISIANA ATTORNEY GENERAL'S

Request for Information Form for Certain Nonprofit Mergers, Sales, and Acquisitions

INSTRUCTIONS AND DEFINITIONS

1. All responses to the Request for Information Form must be typed or clearly printed in black ink. **You must use only the official forms**.

2. All documents and appendices must be provided in compliance with the following:

(a) one set of original documents and three (3) separate sets of legible and collated copies of all documents must be submitted;

(b) each appendix shall be submitted in a separate legal size folder clearly marked with the appendix number along with the name of your nonprofit entity and the date of the Attorney General's Request for Information, set forth in Instruction #9. *For example, Nonprofit Company X, Appendix A, July 1, 1996;* and

(c) each document must be consecutively numbered and labeled along with an abbreviation for your nonprofit entity. *For example, the first document of a submission by the Nonprofit Company X, would be labeled NCX0001*. These initials and numbers should appear in the lower right-hand corner or each document.

3. All amendments or late-filed documents or responses must be clearly labeled to indicate which Request or appendix folder the document should be placed in upon receipt by the State. Such documents must be submitted in compliance with all other instructions herein.

4. Unless otherwise indicated, documents to be produced pursuant to this Request for Information Form include each and every document prepared, sent, dated, received, in effect, or which otherwise came into existence during the last three (3) years through the date of the production of documents by the nonprofit pursuant to this Request. Responses to the Request must be supplemented, corrected, and updated until the close of the transaction. **The Attorney General, at his discretion, may require the production of additional documents.**

5. For each Request calling for the production of documents, produce each and every responsive document in the nonprofit and/or acquiring entity's care, possession, custody, or control, without regard to the physical location of those documents.

6. If the nonprofit and/or acquiring entity possesses no documents responsive to a paragraph of this Request, the nonprofit and/or acquirer must state this fact, specifying the paragraph(s) or subparagraph(s) concerned, in the response. If the nonprofit and/or acquirer must submit documents at a later date than that set forth in Instruction #9, the following procedure is required: the nonprofit and/or acquirer must state this fact, specify the paragraph(s) or subparagraph(s) concerned, identify the document(s) to be produced, and state the expected date of production.

7. If the nonprofit and/or entity asserts a privilege in response to a Request, the nonprofit and/or acquiring entity must state the priviledge, the basis of the priviledge, and identify the documents and Request to which the priviledge attaches.

8. Responses to Requests not requiring the production of documents should be typed or clearly printed in black on the Request for Information Form. If additional space is required, you should attach additional 8 ½" x 11" size pages, clearly noting at the top of the page to which Request the additional information is responsive and the identity of the nonprofit providing the information. *For example: Nonprofit Company X, Continuation to Request #3.*

9. This Request for Information is dated _____. The Attorney General must receive a complete response to this initial Request for Information Form, no later than _____ 199_. If you are unable to provide the information by the date set forth above, please contact, _____, Assistant Attorney General, at _____ within twenty-four (24) hours to discuss an extension of the statutory fifteen (15) day period in order to extend the time period for you to respond to this Request. If you request an extension of the time period, you will be provided an Extension of the fifteen (15) Day Period Form, via facsimile transmission, which must be returned within twenty-four (24) hours of your discussion with the Assistant Attorney General or paralegal in order to extend the response period for the Request for Information. All extensions are subject to the final approval of the Attorney General.

10. All responses to this Request for Information shall be sent by United States Mail, hand delivered, or a nationally recognized express delivery service to the following individual.

_____
Assistant Attorney General

11. The Request for Information Form is not complete or valid without the Certification and Verification Affidavits executed under oath in the presence of a notary and attached to the Request for Information Form.

12. Copies may be submitted in lieu of originals as long as the nonprofit and/or acquirer indicate(s) that the documents are copies, the location of the originals, and the reason for the substitution of copies. All originals must be returned as set forth in the Certification and Verification Affidavits. Additionally, the nonprofit and/or acquirer must sign the Certification of Verification Affidavit(s), agreeing that the documents are authentic for the purposes of Louisiana law.

13. All questions regarding these forms, the scope of any Request, and instruction, or any definitions shall be directed to the Assistant Attorney General listed in Instruction #10.

14. This Request for Information Packet should include all of the following forms:

Form : Instructions and Definitions
Form : Request for Information Form
Form : Certification and Verification Affidavit of the Nonprofit
Affidavit of Officers and Directors
Certification and Verification Affidavit of the Acquirer
Extension of the fifteen (15) Day Period

If your packet is missing any of the above listed forms, please contact by telephone the Assistant Attorney General listed in Instruction #10 immediately. Your response to the Request for Information Form is not complete until the Attorney General's Office has received *all* of the above listed forms, fully completed.

15. In the lower right-hand corner of each page of the Request for Information Form, type or print the name of the nonprofit in the space provided.

16. If two (2) or more nonprofits are merging, *each* nonprofit must complete the entire Request for Information Packet.

EXTENSION OF THE FIFTEEN (15) DAY PERIOD FORM FOR CERTAIN NONPROFITS

On behalf of _____ (insert name of nonprofit., I, _____ (insert your name), hereby waive any right _____ (insert name of nonprofit) may have for the Attorney General to review the proposed application transaction between _____ (insert name of acquirer) within a fifteen (15) day period. On behalf of _____ (insert name of nonprofit), I hereby agree and consent to an extension of the fifteen (15) day period within which the Louisiana Attorney General's Office may review the transaction. Specifically, I agree that the fifteen (15) day period will be extended an additional _____ (insert number) days Thus, the Attorney General's right to review _____ __'s (insert name of nonprofit) proposed transaction application shall not conclude before_____, 199___. (insert date extension will conclude). _____ (insert name of nonprofit) hereby agrees not to conclude or finalize the transaction until after _____, 199___.
(insert day after extension will conclude). I further agree to submit all documents requested by the Attorney General in the Request for Information Packet no later than _____, 199___.

The reason for this request is as follows: _____

_____

_____

On behalf of _____ (insert name of nonprofit), I, _____ (insert your name), represent and warrant that I have authority to act for and bind _____ _____ (insert name of nonprofit).

I also understand that this Request for an Extension is subject to the final approval of the Attorney General. I certify, that this extension form has been completed with true and information, **under penalty of perjury**.

STATE of _____	To be completed by Affiant:
County of _____	
Affiant's	Name: _____
Signature: _____	Title: _____
Date: _____	Address:
Sworn and subscribed before me	_____
this ____ day of _____,	_____
199____	_____
_____	Phone No.: _____
Notary Public	Facsimile No.: _____
My Commission expires: _____	

C. Filing of Additional Documents

1. Format required for filing of additional documents shall be in accord with §307.A.9.

2. Documents relating to an application shall be filed by delivering an original and three copies to the director.

3. Additional documents to an application may be accepted by facsimile machine provided that the original and three copies thereof are received by the director no later than seven days after transmission of the facsimile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1125 (June 1998).

§309. Fees

A. Remittance of Fees

1. In accordance with R.S. 40:2115.22 fees shall be remitted with the application and reports required by R.S. 40:2115.19. Fees shall be reasonably related to the costs incurred by the department in considering the application, evaluating reports, and performing other necessary administrative duties.

2. Fees shall be remitted only by certified check, cashier's check, or bank money order, and made payable to the department.

3. The fee shall be due with the application. The fee shall be $50,000. If the actual cost incurred by the department is greater, the applicant shall pay any additional amounts due as instructed by the department.

4. The fee due with the filing of the report as required by R.S. 40:2115.19 shall be $15,000. If the actual cost incurred by the department is greater, the parties involved shall pay any additional amounts due as instructed by the department.

B. If it becomes necessary for the department to file suit to enforce any provision of applicable law, these rules, or any of the terms of an approved application, then applicants/parties shall be responsible for all costs associated with any such litigation, including, but not limited to all court costs and attorneys fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1130 (June 1998).

§311. Notification of Pending Application and Public Hearing

A. In accordance with R.S. 40:2115.14:

1. within five working days of receipt of a completed application, the department shall notify all persons of record by first class United States mail of the filing of such application, and publish in the official journal of the parish where the hospital is located notice of the filing. The notice shall state the following:

a. that an application has been received;

b. the names of the parties to the agreement;

c. a description of the contents of the agreement; and

d. the date by which a person may submit comments about the application to the attorney general.

B. In accordance with R.S. 40:2115.15:

1. the attorney general shall during the course of review of the application hold a public hearing in which any person may file written comments and exhibits, or may appear and make a statement;

2. the hearing shall be held no later than 30 days after receipt of a completed application. At least 10 working days prior to the scheduled public hearing, the department shall publish in the official journal of the parish where the hospital is located the location, date and time of the public hearing to be held in Baton Rouge, Louisiana;

3. at the public hearing, all interested persons shall be allowed to present testimony, facts, or evidence related to the application and shall be permitted to ask questions. The department shall also receive comments regarding the transaction from any interested person; and

4. if requested by the department, persons required to appear and testify under oath, shall include, but not be limited to:

a. any expert or consultant retained by the applicant who was directly or indirectly involved in the preparation of any financial and/or economic analysis of the proposed transaction;

b. any independent expert or consultant retained by the department to review the proposed transaction regarding his or her finding and analysis; and

c. parties to the agreement, officers, and members of the governing boards of the facilities involved;

5. the department may require additional information or testimony from other persons, including but not limited to, members of the medical staff, nursing staff, contract employees, architects, engineers, other employees, or contractors of the facilities involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1130 (June 1998).

§313. Application Review

A. In accordance with R.S. 40:2115.14:

1. the attorney general shall, within 15 days after the date an application is received, determine if the application is complete for the purposes of review. If the department determines that an application is unclear, incomplete, or contains an insufficient basis upon which to provide a decision, the application shall be returned to the applicant;

2. if the attorney general determines that an application is incomplete, he shall notify the applicant within 15 days after the date the application was received, stating the reasons for his determination of incompleteness with reference to the particular questions for which a deficiency is noted;

3. if an application is returned to the applicant and the applicant will be resubmitting the application for further review, the filing fee shall remain deposited; and

4. if an application is returned and the applicant elects not to resubmit an amended application, the department shall return the filing fee submitted with the application less costs associated with the review process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1131 (June 1998).

§315. Final Decision

A. The attorney general shall review the completed application. Within 60 days after receipt of a completed application, the attorney general shall either:

1. approve the acquisition, with or without specific modifications; or

2. disapprove the acquisition.

B. Any approval shall be conditioned upon the periodic submission of specific data relating to cost, access, and quality, and to the extent feasible, identify objective standards of cost, access, and quality by which the success of the arrangement will be measured.

1. The final decision shall be in writing and be based upon findings of fact and conclusions of law supporting the decision.

2. The department may condition approval on a modification of all or part of the proposed arrangement.

3. A copy of the final decision shall be sent, by certified mail, to the applicant. All persons on record shall be provided notice of the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1131 (June 1998).

§317. Reports and Ongoing Supervision of Certificates

A. In accordance with R.S. 40:2115.19, the parties to the agreement shall submit information and supporting data on an annual basis regarding the current status of the agreement, including information relative to the continued benefits, any disadvantages of the agreement, and sufficient information to evaluate whether any terms and conditions imposed by the department have been met or otherwise satisfied. Reports shall be due on or before the annual anniversary date of the approval. Parties are under a continuing obligation to provide the department with any change to the information contained in the application subsequent to the approval of the application. Such information shall be provided to the department in a timely fashion or within a reasonable time that such information is known to the parties. The attorney general may subpoena information and documents reasonably necessary to assure compliance.

B. The information and supporting data that must be submitted to the department shall include, but not be limited to, the following:

1. an update of all the information required in the application;

2. any change in the geographic territory that is served by the health care equipment, facilities, personnel, or services which are subject of the agreement;

3. a detailed explanation of the actual effects of the agreement on each party, including any change in volume, market share, prices, and revenues;

4. a detailed explanation of how the agreement has affected the cost, access, and quality of services provided by each party; and

5. any additional information requested by the department.

C. Requested data shall be in the following format.

1. The page shall be numbered and printed on paper measuring 8½ by 11 inches. The margins shall not be less than 1 inch on all sides. Unless otherwise required, all data shall be printed on white paper.

2. Trade secret information shall be designated and printed on goldenrod colored paper to assist identifying material exempt under the Louisiana Public Records Act.

D. The department may, at any time, require the submission of additional data or alter the time schedule for submission of information. The parties shall be notified by certified mail of any requirement for the submission of additional information or alteration of the time for submission of materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1131 (June 1998).

§319. Revocation

A. If at any time, the attorney general receives information indicating that the acquiring person is not fulfilling the commitment to the affected community as provided for in R.S. 40:2115.18, the attorney general shall hold a hearing upon 10 days notice to the affected parties.

1. If after the hearing the attorney general determines that the information is true, it may petition the Louisiana Department of Health and Hospitals to revoke the license issued to the purchaser.

2. Any action for license revocation shall be conducted in accordance with the provisions of R.S. 40:2109 et seq., and the regulations promulgated thereunder.

B. Notwithstanding any other provision of this part any amendment or alteration to an approved cooperative, merger, or consolidation agreement and any material change in the operations or conduct of any party to a cooperative, merger, joint venture, or consolidation shall be considered a new agreement and shall not take effect or occur until the attorney general has approved the amendment, alteration, or change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:1131 (June 1998).

E. Kay Kirkpatrick
Deputy Attorney General

9806#084

RULE

Department of Public Safety and Corrections
Board of Pardons

Clemency Filing and Processing
(LAC 22:V.Chapter 1)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Board of Pardons hereby amends rules and procedures relative to processing requests for clemency consideration.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part V. Board of Pardons
Chapter 1. Applications
§101. General

A. Any completed application will be considered for hearing by the board on the first Tuesday of each month. Should the first Tuesday fall on a legal holiday, the board will meet the following Tuesday. The board shall also meet at the discretion of the chairman to transact such other business as deemed necessary.

B. Applications must be received in the Board of Pardons office by the fifteenth of the month to be placed on the docket for consideration the following month.

C. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

D. Any offender sentenced to death shall submit an application within one year from the date of the direct appeal denial.

E. Any offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has sufficient evidence which would have caused him to have been found not guilty.

F. No application will be considered by the board until it deems the application to be complete in accordance with the following rules and procedures in Chapter 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.1 and 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1132 (June 1998).

§103. Filing Procedure

A. All Applicants

1. Every application must be submitted on the form approved by the Board of Pardons and must contain the following information:

a. name of applicant;

b. prison number [Department of Corrections (DOC) number];

c. date of birth;

d. race/sex;

e. education (highest grade completed);

f. age at time of offense;

g. present age;

h. offender class;

i. place of incarceration (incarcerated applicant only);

j. parish of conviction/judicial district/court docket number;

k. offense(s) charged, convicted of or plead to;

l. parish where offense(s) committed;

m. date of sentence;

n. length of sentence;

o. time served;

p. prior parole and/or probation;

q. when and how parole or probation completed;

r. prior clemency hearing/recommendation/approval;

s. reason for requesting clemency;

t. relief requested and narrative detailing the events surrounding the offense;

u. institutional disciplinary reports (incarcerated applicants only); total disciplinary reports, number within the last 12 months; nature and date of last violation; and custody status.

2. The application shall be signed and dated by applicant and shall contain a prison or mailing address and home address.

3. An application must be completed. If any required information does not apply, the response should be "NA."

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant:

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and time computation/jail credit worksheet and have the signature of a classification officer verifying the conduct of the applicant as set out in §103.A.1.u and a copy of conduct report. Applicants sentenced to death must attach proof of direct appeal denial.

2. Parolees. Applicants presently under parole supervision or who have completed parole supervision must

attach a copy of their master prison record or parole certificate.

3. Probationers. Applicants presently under probation supervision or who have completed probationary period must attach a certified copy of sentencing minutes or copy of automatic first offender pardon.

4. First Offender Pardons [R.S. 15:572 (B)]. Applicants who have received an Automatic First Offender Pardon must attach a copy of the Automatic First Offender Pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing unless applicant has a life sentence and has served less than 15 years and has documentation proving innocence. The Board of Pardons will not be responsible for items submitted prior to notification that a hearing will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1132 (June 1998).

§105. Discretionary Powers of the Board

A.1. The Board of Pardons, at its discretion, may deny any applicant a hearing for any of the following reasons:

a. serious nature of the offense;
b. insufficient time served on sentence;
c. insufficient time after release;
d. proximity of parole/good time date;
e. institutional disciplinary reports;
f. probation/parole—unsatisfactory/violated;
g. past criminal record; or
h. any other factor determined by the board.

2. However, nothing in Chapter 1 shall prevent the board from hearing any case.

B. Any applicant denied under Chapter 1 shall be notified, in writing, of the reason(s) for denial and thereafter may file a new application two years from date of the letter of denial. Any applicant with a life sentence denied after August 15, 1997 may reapply six years after the initial denial; three years after the subsequent denial; and every two years thereafter.

C. Any fraudulent documents or information submitted by applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial. Any lifer denied because of fraudulent documents may reapply 10 years from the date of letter of initial denial; seven years if subsequent denial; and six years for denials thereafter.

D. In any matters not specifically covered by LAC 22:V.Chapter 1, the board shall have discretionary powers to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1133 (June 1998).

§107. Contact with the Board of Pardons

A. Contact with the Board of Pardons or any member is prohibited except by appearing/testifying at a public hearing or by written letter addressed to the Board of Pardons.

B. If a board member is improperly contacted, he/she must immediately notify the individual that the contact is illegal. The letter must be accompanied by a copy of R.S.15:573.1, and the contact must be reported to the other board members.

C. Any prohibited contact after an individual has been informed of the prohibition as provided in §107.B shall be fined not more than $500 or imprisoned for not more than six months or both.

D. All letters in favor of pardon, clemency, or commutation of sentence are subject to public inspection. Exceptions to §107 are:

1. letters from any victim of a crime committed by the applicant being considered for pardon, clemency, or commutation of sentence, or any person writing on behalf of the victim;

2. any letters written in opposition to pardon, clemency, or commutation of sentence.

E. All letters written by elected or appointed public officials in favor of or opposition to pardon, clemency, or commutation of sentence received after August 15, 1997 are subject to public inspection and shall be recorded in a central register maintained by the board. The register shall contain the name of the individual whose pardon, clemency, or commutation of sentence is subject of the letter, the name of the public official who is the author of the letter and the date the letter was received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1133 (June 1998).

§109. Hearing Granted

A. After notice to an applicant that a hearing has been granted the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I, (applicant's name), DOC Number, have applied for clemency"

and must be published for three days within a 30-day period without cost to the Department of Public Safety and Corrections, Corrections Services, Board of Pardons.

B. Applicant may submit additional information, (e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1063 (December 1990), amended LR 24:1133 (June 1998).

§111. Notice of Public Hearing Dates

A. After receipt of all documents required by §§103 and 109.A and the clemency investigation from the appropriate probation and parole district, the board shall set the matter for public hearing.

B. At least 30 days prior to public hearing date, the board shall give written notice of the date, time, and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted; and, in Orleans Parish, the superintendent of police;

2. the applicant;

3. the victim who has been physically or psychologically injured by the applicant (if convicted of that offense), and the victim's spouse or next of kin, unless the injured victim's spouse or next of kin advises the board, in writing, that such notification is not desired;

4. the spouse or next of kin of a deceased victim when the offender responsible for the death is the applicant (if convicted of that offense), unless the spouse or next of kin advises the board, in writing, that such notification is not desired;

5. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and

6. any other interested person who notifies the Board of Pardons, in writing, giving name and return address.

C. The district attorney, injured victim, spouse, or next of kin, and any other persons who desire to do so shall be given a reasonable opportunity to attend the hearing. The district attorney or his representative, victim, victim's family, and a victim advocacy group, may appear before the Board of Pardons by means of telephone communication from the office of the local district attorney.

D. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak at the hearing. However, there is no limit on written correspondence in favor of and/or opposition to the applicant's request.

E. If an applicant is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.

F. Applicant's failure to attend and/or notify the Board of Pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in six years if it is his/her initial hearing, three years if subsequent hearing date, and two years thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4 and 15:574.12(G) and R.S. 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Correction, Board of Pardons, LR 16:1063 (December 1990), amended LR 24:1133 (June 1998).

§113. Denials by Board after Public Hearing

A. The board shall notify the applicant of the denial. Applicant may submit a new application two years after the date of letter of denial. Any applicant serving life may apply six years after initial denial, three years after subsequent denial and thereafter every two years.

B. The board shall terminate hearing should the applicant become disorderly, threatening, or insolent. Any hearing terminated due to applicant's disorderly, threatening, or insolent behavior is an automatic denial and the applicant may reapply four years from the date of hearing except those serving life sentence who may reapply 10 years from the date of initial hearing termination, seven years from the subsequent hearing termination, and six years from hearing termination thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998).

§115. Denial/No Action Taken by Governor after Favorable Recommendation

A. The board shall notify the applicant after its receipt of notification that favorable recommendation was denied or no action was taken by the governor. Applicant may submit a new application one year from the date of the letter of denial or notice of no action.

B. An applicant who has been paroled, released under good time parole supervision, or released from sentence within one year of the date of letter of denial or notice of no action by the governor, may submit a new application two years after the date of release from confinement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998).

§117. Governor Grants

The Office of the Governor will notify the applicant if any clemency is granted. Applicant may submit a new application for additional relief four years from the date of notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15.572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998).

C.J. Bell
Vice-Chairman

9806#015

RULE

Department of Social Services
Office of Family Support

Family Independence Work Program
(FIND Work)—Organization, Activities
and Services (LAC 67:III.2901 and 2913)

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 5, Family Independence Work Program, known in Louisiana as "FIND Work" and formerly known as "Project Independence."

Under the authority of Public Law 104-193 and R.S. 46:231.10, the agency changed the amount allowed per participant per fiscal year for items deemed necessary to facilitate a participant's entry into employment. The funds used to provide such items has been set at a maximum of $100 per participant per fiscal year since October 1990. This rule increases the amount allowed to $150 per participant per fiscal year. Section 2901 is also being updated as the authority to administer the program has changed.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 5. Family Independence Work Program (FIND Work)
Chapter 29. Organization
Subchapter A. Designation and Authority of State Agency
§2901. General Authority

The Family Independence Work Program (FIND Work) is established in accordance with state and federal laws to assist recipients of Family Independence Temporary Assistance (FITAP) to become self-sufficient by providing needed employment-related activities and support services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 19:504 (April 1993), LR 24:1135 (June 1998).

Subchapter C. Activities and Services
§2913. Support Services

A. - 3.a. ...

b. Payments not to exceed a combined total of $150 per fiscal year may be made for certain costs deemed necessary such as eyeglasses, hearing aids and other small medical appliances, uniforms, tools and training materials, medical exam not provided by Medicaid or other resource, placement test fees and other course prerequisite costs, safety equipment and transportation related expenses.

c. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:451 (April 1997), amended by the Office of the Secretary and Office of Family Support, LR 24:356 (February 1998), amended by the Office of Family Support, LR 24:1135 (June 1998).

Madlyn B. Bagneris
Secretary

9806#043

RULE

Department of Transportation and Development
Highways/Engineering

Joint Use Agreements
(LAC 70:III.1901)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby adopts a rule entitled "Joint Use Agreements," in accordance with R.S. 48:381.1.

Title 70
TRANSPORTATION
Part III. Highways/Engineering
Chapter 19. Contracts, Leases and Agreements
§1901. Joint Use Agreements

A. Elements of the Lease

1. At the initiation of the lease, DOTD's Real Estate Section will estimate the fair market lease value of the property. That value will be utilized in determining the amount charged as a rental fee. At the conclusion of a five-year term, the market value of the leased property will be reassessed. If the lessee chooses not to renew the lease and pay the revised fair market value as a fee, the lease shall expire.

2. DOTD property that is "excess," or that was expropriated through unfriendly negotiations will not be eligible for lease. DOTD "excess" property shall be disposed of in accordance with R.S. 48:224 and EDSM Number I.1.1.10, and shall not be leased.

3. Property that bears improvements constructed with public funds will not be eligible for lease for a period of 20 years from the date of completion of said improvements.

4. Preference in use of right-of-way is as follows:
   a. highway purposes;
   b. drainage purposes;
   c. legal street connections purposes;
   d. legal driveway connections purposes;
   e. utilities purposes;
   f. joint use (lease) purposes.

5. Preference for availability of joint use leases shall be given to the following entities, in the following order:
   a. governmental bodies using the property for the general public and generating no revenue;
   b. governmental bodies;
   c. the land owner from whom the property was expropriated;
   d. adjacent land owners;
   e. general public.

6. Title and control of the area of right-of-way involved will remain with DOTD.

7. Subleasing is prohibited without the prior written consent of DOTD.

8. Use of property shall be in accordance with local building and zoning ordinances and/or codes.

9. DOTD may terminate the lease agreement at any time and require lessee to vacate the premises and remove all improvements. Improvements not removed by lessee within 30 days may be removed by DOTD at lessee's expense.

10. The lease shall be subordinate to any existing agreements between DOTD and other parties affecting the leased property.

11. Illegal activities on the premises conducted by lessee are prohibited and shall trigger automatic termination of the lease.

12. All heavy commercial activity and the serving of alcohol are prohibited on the leased premises.

B. Application Procedure

1. Parties interested in leasing state right-of-way must contact the headquarter's utility and permit engineer at the permit office of DOTD.

2. The applicant must submit, in writing to the headquarter's utility and permit engineer, a proposal detailing the use of the property including a location description. The headquarter's utility and permit engineer will distribute copies of the proposal to the district office and other appropriate parties within the department.

3. DOTD will investigate proposed highway improvements in the area and the viability of leasing the property.

4. If a lease agreement is viable, then the applicant must submit:

a. a layout map of the requested area showing DOTD right-of-way, including a metes and bounds description;

b. a written metes and bounds description of the area labeled as "Exhibit A";

c. detailed plans showing any improvements to be placed on the premises including structures, type of material used, appearance, fences which may be required, and any other pertinent information, labeled "Exhibit B";

d. vertical clearance between area to be used and bottom of overhead structure.

5. DOTD's Real Estate Section will estimate the fair market lease value of the property.

6. If more than one party is interested in leasing the same parcel of property:

a. DOTD shall first attempt to facilitate a cooperative endeavor agreement between the parties, so that the property can be shared;

b. if a cooperative endeavor is not possible, then §1901.A.5 shall be utilized to select a lessee;

c. if two or more parties tie for top choice, then DOTD shall initiate a bidding process as follows:

i. all parties will be informed of the bid situation and given 30 days to prepare bids;

ii. DOTD shall designate a date to receive sealed bids;

iii. the headquarter's utility and permit engineer shall open all bids on the same day;

iv. bids more than 10 percent below the estimated fair market value shall be rejected. All bids for uses that the headquarter's utility and permit engineer deems prohibited, inappropriate, or inconsistent with use of the property by DOTD shall be rejected. If any bids remain, the lease shall be awarded to the highest bid. If no eligible bids remain, then the bid process may be repeated. If there are still no eligible bids, then all proposals shall be discarded. In the event of a tie, the tied parties will be allowed to toss a coin to determine the winning bidder.

7. DOTD performs all required reviews of the request, including an environmental assessment. The applicant may be required to submit corrected and/or additional information.

8. Once the submittal is complete and correct and the environmental clearance is issued, the request is given final approval by the headquarter's utility and permit engineer.

9. The request is then submitted to the Federal Highway Administration (FHWA) for review and becomes effective upon the concurrence of FHWA. (Note: FHWA concurrence is not required for some state routes.)

C. Improvements

1. No improvements or alterations, including landscaping, shall be made upon the premises without written approval of DOTD.

2. The improvements and the property must be maintained by the lessee in good condition. Maintenance must be accomplished so that there is no unreasonable interference with the transportation facility.

3. All plans for construction of any improvements must be reviewed and approved by DOTD. Preliminary plans must be submitted with the initial application.

4. At the conclusion of the lease, all improvements must be removed leaving the property in its original condition. In special cases improvements may remain with written consent from DOTD, provided there is no expense to DOTD.

D. Maintenance and Inspection

1. The lessee shall, at its sole expense, keep and maintain the premises at all times in an orderly, clean, safe, and sanitary condition.

2. If proper maintenance is not performed, DOTD reserves the option to cancel the lease or perform the maintenance and obtain reimbursement from the lessee.

3. The lessee shall maintain the premises at the lessee's own expense, including all driveways, fences, and guardrails, subject to the approval of DOTD. The lessee shall be liable for reimbursement to DOTD for any damage to DOTD property.

4. On-premise signs, displays, or devices may be authorized by DOTD, but shall be restricted to those indicating ownership and type of activity being conducted in the facility, and shall be subject to reasonable restrictions with respect to number, size, location, and design.

5. Inspections of the property may be performed by a DOTD representative to assure compliance with all the rules set forth in the lease. DOTD specifically reserves the right of entry by any authorized employee, contractor, or agent of DOTD for the purpose of inspecting said premises, or the doing of any and all acts necessary on said premises in connection with protection, maintenance, painting, and operation of structures and appurtenances. DOTD reserves the further right, at its discretion, to immediate entry upon the premises and to take immediate possession of the same only in case of any national or other emergency and for the protection of said structures; and, during said period, lessee shall be relieved from the performance of all conditions of the agreement.

6. All structures shall be of fire resistant construction as defined by the applicable building codes, and will not be utilized for the manufacture of flammable material, or for the storage of materials or other purposes deemed by the DOTD or Federal Highway Administration to be a potential fire or other hazard to the highway.

7. The lessee shall secure all necessary permits required in connection with operations on the premises and shall comply with all federal, state, and local statutes, ordinances, or regulations which may affect the lessee's use of the premises.

E. Liability of Lessee

1. The lessee shall occupy and use the property at its own expense, and shall hold DOTD, its officers, agents, and employees, harmless from any and all claims for damage to

property, or injury to, or death of, any person entering upon same with lessee's consent, expressed, or implied.

2. The lessee shall carry liability insurance to indemnify claims resulting from accidents and property damage, which coverage shall be extended to include the facilities authorized in this agreement, to provide for the payment of any damages occurring to the highway facility and to the public for personal injury, loss of life and property damage resulting from lessee's use of the premises. DOTD shall be named as an additional insured and proof of such required insurance shall be provided to DOTD prior to occupancy. The insurance company and lessee shall notify DOTD, in writing, at least 30 days prior to cancellation of changes affecting the required insurance coverage.

F. Credit Check and Security Deposit

1. DOTD may require a credit check.

2. A security deposit may be required at the discretion of the DOTD.

G. Payment

1. Payment will be due on the first day of every year. If the lease begins in the middle of the year, the rent will be prorated for that year according to the number of days remaining in that year.

2. At the discretion of DOTD, payment may be due on a monthly basis.

3. Payments must be made by check, money order, or certified check.

4. If a lessee submits a bad check for payment, he will no longer be allowed to pay with personal checks. Future payments must be made by certified checks or money orders.

H. Governmental Entities

1. The fees may be waived for governmental entities if there is no revenue derived by the use of the property.

2. If the revenue generated is not sufficient to cover operating expenses and the joint use fee, the rent may be reduced to 10 percent of the gross revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:1135 (June 1998).

Frank M. Denton
Secretary

9806#057

RULE

Department of the Treasury
Board of Trustees of the State Employees Group Benefits Program

Mental Health Parity

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has approved amendments to the Plan Document of Benefits in compliance with state and federal law, in particular, the Mental Health Parity Act of 1996. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars, effective July 1, 1998:

Amendment Number 1

Amend the Schedule of Benefits, under the heading "Mental Health/Substance Abuse," as follows:

a. Under the subheading "Benefits," amend Paragraph 2 and add Paragraphs 3 and 4, to read as follows (Paragraph 1 is unchanged):

1. ...

2. 100 percent of eligible expenses over $5,000 until the lifetime maximum for all program benefits is reached.

3. Up to a maximum of 45 inpatient days per person, per calendar year.

4. Up to a maximum of 52 outpatient visits per person, per calendar year inclusive to the intensive outpatient program.

Note: Two days of partial hospitalization or two days of residential treatment center hospitalization may be traded for each impatient day of treatment that is available under the 45-day calendar year maximum for impatient treatment. A residential treatment center is a 24-hour, mental health or substance abuse, nonacute care treatment setting for active treatment interventions directed at the amelioration of the specific impairments that led to the admission. Partial hospitalization is a level of care where the patient remains in the hospital for a period of less than 24 hours.

b. Under the subheading "Maximum," delete Paragraphs 2 and 3.

Amendment Number 2

Amend the second, unnumbered, paragraph of Article 3, Section I, Subsection D, to read as follows:

D. Maximum Benefit

* * *

Benefits for mental health and substance abuse treatment will be paid subject to the lifetime limits for all benefits in the Schedule of Benefits. Benefits paid may be used toward the restoration of the lifetime balance as set forth in the Schedule of Benefits.

* * *

Amendment Number 3

Amend Article 3, Section I, Subsection F, Paragraph 33, to read as follows:

F. Eligible Expenses

* * *

33. Mental health and/or substance abuse services only when obtained through the Program's contractor. These services are subject to a separate $200 deductible and have a separate $1,000 out-of-pocket maximum per individual. There is also a $50 per day deductible for a maximum of five days ($250) for inpatient benefits. After satisfying any applicable deductibles, the Program, through the contractor pays 80 percent of the first $5,000 of eligible expenses per calendar

year and then 100 percent of eligible expenses up to the lifetime maximum for all benefits listed in the Schedule of Benefits.

* * *

Ann B. Davenport
Deputy Director

9806#078

RULE

Department of the Treasury
Board of Trustees of the Teachers' Retirement System

Cost of Living Adjustment
(COLA)(LAC 58:III.1303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of the Teachers' Retirement System approved the following method for the distribution of a cost-of-living adjustment for all eligible retirees, all eligible beneficiaries of deceased retirees and all eligible survivors of deceased members of the Teachers' Retirement System from the Employee Experience Account. This benefit adjustment is effective July 1, 1998, pursuant to the notice of intent published March 20, 1998.

Title 58
RETIREMENT
Part III. Teachers' Retirement System of Louisiana
Chapter 3. Cost-of-Living
§1303. Cost-of-Living Adjustment—July 1, 1998

A. Effective July 1, 1998, the Board of Trustees of the Teachers' Retirement System of Louisiana shall increase the retirement benefit or other benefit of each retiree, or the beneficiary or survivor of any member eligible to receive benefits, on account of the death of the member or retiree. This increase in benefit shall be provided from the Employee Experience Account held at the Teachers' Retirement System of Louisiana.

B. The increase in benefit granted from the Employee Experience Account shall be a monthly increase in the benefit of each eligible recipient as determined in accordance with the formula: $10.00 + W + 2X + Y + 2Z, where:

W = $1.00 per year since retirement or death of the member or retiree to June 30, 1997;

X = $1.00 per year since retirement or death of the member or retiree in excess of 10 years as of June 30, 1997;

Y = $1.00 per year of credited service at the time of retirement or death of the member or retiree;

Z = $1.00 per year of credited service greater than 25.0 years at the time of retirement or death of the member or retiree.

C. No increase in benefit shall be paid to any retiree, beneficiary or survivor unless such person was receiving benefits on or prior to June 30, 1997. In addition, no increase in benefits shall be paid to any former participant of the Deferred Retirement Option Plan unless both plan participation and employment were terminated by the plan participant on or prior to June 30, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:787(D) and 11:883.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 24:1138 (June 1998).

James P. Hadley, Jr.
Director

9806#016

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Reef Fish— Daily Take and Size
Limits (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby amend a rule (LAC 76:VII.335) modifying recreational creel and size limits for reef fish, and rules for commercial harvest of reef fish, which are part of the existing rule for daily take, possession, and size limits for reef fishes set by the commission. Authority for adoption of this rule is included in R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§335. Reef Fish—Daily Take, Possession and Size Limits Set by Commission

A. The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations regarding the harvest of triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies within and without Louisiana's territorial waters:

	SPECIES	RECREATIONAL BAG LIMITS
	* * *	
4.	Greater amberjack	1 fish per person per day
	* * *	

B.1. All persons who do not possess a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to the recreational bag limit.

2. Persons who are limited to a recreational bag limit shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any reef fish.

* * *

D.1. For charter vessels and headboats as defined in 50 CFR Part 622.2 there will be an allowance for up to two daily bag limits on multi-day trips provided the vessel has two licensed operators aboard as required by the U.S. Coast Guard for trips of over 12 hours, and each passenger is issued and has in possession a receipt issued on behalf of the vessel that verifies the length of the trip.

2. Any fish taken from charter vessels or headboats as defined in 50 CFR Part 622.2 or any charter vessel as described in R.S. 56:302.9 shall not be sold, traded, bartered or exchanged or attempted to be sold, traded, bartered or

exchanged. The provisions of §335 apply to fish taken within or without Louisiana's territorial waters.

3. No person aboard any commercial vessel shall transfer or cause the transfer of fish between vessels on state or federal waters.

* * *

G. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any red snapper in excess of any possession limit for which a commercial license or permit was issued.

H.	Species	Minimum Size Limits
1.	Red Snapper	15 inches total length
2.	Gray, mutton and yellowtail snapper	12 inches total length
3.	Lane snapper	8 inches total length
4.	Red, gag, black, yellowfin and Nassau grouper	20 inches total length
5.	Jewfish	50 inches total length
6.	Greater amberjack	28 inches fork length (recreational) 36 inches fork length (commercial)
7.	Black seabass	8 inches total length
8.	Vermillion snapper	10 inches total length

I. Federal regulations 50 CFR Part 622.2 defines charter vessels and headboats as follows:

Charter Vessel—a vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

Headboat—a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory pelagic fish or Gulf reef fish, when there are more than three persons aboard, including operator and crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998).

Thomas M. Gattle, Jr.
Chairman

9806#035

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Reef Fish —Daily Take and Size Limits (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby amend LAC 76:VII.335, modifying commercial red snapper harvest requirements and establishing a closed season for commercial harvest of greater amberjack, as part of the existing rule for daily take, possession and size limits for reef fishes set by the commission. The authority for adoption of this proposed rule is included in R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§335. Reef Fish—Daily Take, Possession and Size Limits Set by Commission

* * *

E. All persons who do not possess a Class 1 or Class 2 red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico reef fish resources are limited to the recreational bag limit for red snapper. Those persons possessing a Class 2 red snapper licenses issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico reef fish resources are limited to a daily take and possession limit of 200 pounds of red snapper per vessel.

F. Those persons possessing a Class 1 red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to a daily take and possession limit of 2,000 pounds of red snapper per vessel.

* * *

J. The season for the commercial harvest of greater amberjack shall be closed during the months of March through May of each year. Possession of greater amberjack in excess of the daily bag limit while on the water is prohibited during the closed season. Any greater amberjack harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. The provisions of §335.J apply to fish taken within or without Louisiana's territorial waters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1139 (June 1998).

James H. Jenkins, Jr.
Secretary

9806#036

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

White-Tailed Deer Importation (LAC 76:V.117)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Wildlife and Fisheries Commission does hereby promulgate rules governing imporation of white-tailed deer into Louisiana.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§117. White-Tailed Deer Importation

A. Definitions

White-Tailed Deer—any animal of the species *Odocoileus virginianus*.

B. Permits. No person shall import, or cause to be imported, white-tailed deer into the state of Louisiana without first notifying the Department of Agriculture and Forestry and obtaining a current permit number. The permit number shall be included on the certificate of veterinary inspection and shall accompany the shipment of white-tailed deer. The permit number and certificate of veterinary inspection shall be e available to Department of Wildlife and Fisheries personnel upon request.

C. Import Restrictions

1. No person shall import or cause to be imported any white-tailed deer from the states of California, Colorado, Connecticut, Delaware, Michigan, New Jersey, New York, ennsylvania, Rhode Island, South Dakota, or Wyoming. This shall include any white-tailed deer that have been confined within these states, or have been in direct contact with deer of any species from these states, within 180 days of entry into Louisiana.

2. No person shall import or cause to be imported any white-tailed deer without written proof of a negative test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules*, as published by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

3. No person shall import, or cause to be imported, white-tailed deer without written proof of a negative test for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* once published by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* are published, all white-tailed deer 6 months of age and older entering Louisiana shall be tested negative for brucellosis within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the white-tailed deer originate from a herd which has been officially declared a certified brucellosis-free herd by the state of origin.

4. No person shall import, or cause to be imported, any white-tailed deer for release into the wild or into any enclosure not specifically licensed for the possession of white-tailed deer.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:6(10), (13) and (15), R.S. 56:20 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:1140 (June 1998).

Thomas M. Gattle, Jr.
Chairman

9806#034

Notices of Intent

NOTICE OF INTENT

Department of Economic Development
Board of Architectural Examiners

Certificates (LAC 46:I.905)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rule making procedures have been initiated for the amendment and repromulgation of LAC 46:I.905 pertaining to the certificates which the board issues to architects. The only proposed change pertains to §905.E. The board proposes to amend §905.E to allow registrants retired from active practice who have either practiced architecture for thirty (30) years or more or who are 65 years of age or older to request emeritus status. Presently, only registrants retired from active practice who are 65 years of age or older may request such a status.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects
Chapter 9. Registration Procedure
§905. Certificates

A. Upon granting registration and issuance of a license to practice architecture, a copy of the licensing law and the rules of the board shall be forwarded to the registrant.

B. Only individuals, professional architectural corporations, architectural-engineering corporations, and limited liability companies who have met the statutory registration requirements through established board rules shall receive certificates of registration.

C. Each holder of a certificate shall maintain the certificate in his principal office or place of business in this state.

D. A replacement certificate will be issued to a registrant to replace one lost or destroyed, provided the current annual registration renewal is in effect, the registrant makes proper request and submits an acceptable explanation of the loss or destruction of the original certificate, and the registrant pays a fee to be set by the board.

E. Registrants retired from active practice who have either practiced architecture for thirty (30) years or more or who are 65 years of age or older may request emeritus status. The annual renewal fee for approved emeritus registrants will be $5. Revocation and reinstatement rules will otherwise apply to emeritus registrants, just as they do to all other registrants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:334 (September 1978) and LR 10:738 (October 1984), amended by Department of Economic Development, Board of Architectural Examiners, LR 15:6 (January 1989), LR 20:995 (September 1994), LR 24:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809.

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Certificates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule change may have some minimal effect on revenue collections of the Louisiana State Board of Architectural Examiners, since some registrants retired from active practice who have practiced architecture for 30 or more years may request emeritus status.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This rule change may have some economic benefit to registrants retired from active practice who have practiced architecture for 30 years or more since some of those persons might request emeritus status.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition or employment associated with this proposed rule.

Mary "Teeny" Simmons
Executive Director
9806#072

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Board of Architectural Examiners

Seal/Stamp—Use; Prohibition; and Documentation
(LAC 46:I.1115)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that rule making procedures have been initiated for the amendment of LAC 46:I.1115 pertaining to the board's interpretation of R.S. 37:152(B). R.S. 37:152(B) prohibits an architect from affixing his or her seal or stamp or permitting it to be affixed to any specification, drawing, or other related document

which was not prepared either by him or her or under his or her responsible supervision, and §1115 requires the architect to maintain written documentation of the architect's preparation or responsible supervision. The board proposes to clarify that this written documentation should be maintained for whatever prescriptive period may be applicable to claims against the architect which may arise from his or her involvement in the project. Further, the board proposes to clarify that this statute does not prohibit the use of prototypical documents in limited situations where certain requirements have been satisfied.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects
Chapter 11. Administration
§1115. Interpretation of R.S. 37:152(B)

A.1. Specifications, drawings, or other related documents will be deemed to have been prepared either by the architect or under the architect's responsible supervision only when:

a. the client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the architect, or the architect's employee as long as the employee works in the architect's office;

b. the architect personally controls the preparation of the plans, specifications, drawings, reports or other documents and has input into their preparation prior to their completion;

c. if the plans, specifications, drawings, reports, or other such documents are prepared outside the architect's office, the architect shall maintain evidence of the architect's responsible control including correspondence, time records, check prints, telephone logs, site visit logs, research done for the project, calculations, changes, and written agreements with any persons preparing the documents outside of the architect's offices accepting professional responsibility for such work;

d. the architect reviews the final plans, specifications, drawings, reports or other documents; and

e. the architect has the authority to, and does, make necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents.

2. If an architect fails to maintain written documentation of the items set forth above, when such are applicable, then the architect shall be considered to be in violation of R.S. 37:152, and the architect shall be subject to the disciplinary penalties provided in R.S. 37:153. This written documentation should be maintained for the prescriptive period applicable to claims against the architect which may arise from his or her involvement in the project.

B.1. Nothing precludes the use of prototypical documents provided the architect:

a. has written permission to revise and adapt the prototypical documents from the person who either sealed the prototypical documents or is the legal owner of the prototypical documents;

b. reviewed the prototypical documents and made necessary revisions to bring the design documents into compliance with applicable codes, regulations, and job specific requirements;

c. independently performed and maintains on file necessary calculations;

d. after reviewing, analyzing and making revisions and/or additions, issued the documents with his/her title block and seal (by applying his/her seal the architect assumes professional responsibility as the architect of record); and

e. maintained design control over the use of site adapted documents just as if they were his/her original design.

2. The term "prototypical documents" shall mean model documents of buildings that are intended to be built in several locations with substantially few changes and/or additions except those required to adapt the documents to each particular site; that are generic in nature; that are not designed or premised upon the laws, rules or regulations of any particular state, parish, or municipal building code; that do not account for localized weather, topography, soil, subsistence, local building codes, or other such conditions or requirements; and that are not intended to be used as the actual documents to be employed in the construction of a building but rather as a sample or a model to provide instruction or guidance. The term "legal owner" shall mean the person who provides the architect with a letter that he or she is the owner of the documents and has the written permission to allow the use thereof.

AUTHORITY NOTE: Promulgated and amended in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 17:575 (June 1991), amended LR 24:18 (January 1998), LR 24:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809.

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Seal/Stamp—Use; Prohibition; and Documentation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule.

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 non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule.

Mary "Teeny Simmons
Executive Director
9806#071

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Racing Commission

Entries (LAC 35:V.6301)

The Racing Commission hereby gives notice that it intends to amend LAC 35:V.6301 "Procedure" because of the need to stipulate the requirement that jockey agents shall only be permitted to enter only those horses which their respective jockeys are scheduled to ride.

Title 35
HORSE RACING
Part V. Racing Procedures
Chapter 63. Entries
§6301. Procedure

Entries and declarations shall be made in writing and signed by the owner or trainer of the horse, or his authorized agent or his subagent. Jockey agents may make entries for owners or trainers after presenting the stewards with written permission from the owners or trainers. However, jockey agents shall only be permitted to enter only those horses which their respective jockeys are scheduled to ride.

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

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:436 (December 1976), LR 3:32 (January 1977), LR 4:279 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 24:

The domicile office of the Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, executive director; C.A. Rieger, assistant director; or Tom Trenchard, administrative manager, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information.

All interested persons may submit written comments relative to this proposed rule through June 6, 1998, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Paul D. Burgess
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Entries

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this action.

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)

This action benefits horsemen by requiring jockey agents to enter horses only with their own assigned riders.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9806#013

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Used Motor Vehicle and Parts Commission

Meetings and Licensure
(LAC 46:V.2701, 2703, 2901, 2905 and 3303)
(Repeal of §2801)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes, Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission intends to amend sections of existing rules and regulations and repeal §2801.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
PART V. Automotive Industry
Subpart 2. Used Motor Vehicle and Parts Commission
Chapter 27. The Used Motor Vehicle and Parts Commission
§2701. Meetings of the Commission

A. The Commission shall meet at its office in Baton Rouge, LA on the second Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 1 P.M. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42:5.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989), LR 18:1116 (October 1992), LR 24:

§2703. Quorum of the Commission

Seven members of the commission shall constitute a quorum for the transaction of official business. Fewer than a quorum may adjourn the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:

§2801. Identification Cards

Repealed.

§2901. Dealers to be Licensed

A. ...

B. Dealers in new and used motor homes, new and used semitrailers, new and used motorcycles, new and used all-terrain vehicles, new and used recreational trailers, new and used boat trailers, new and used travel trailers, new and used buses, new and used fire trucks, new and used wreckers, new and used boats, new and used boat motors, daily rentals not of the current year or immediate prior year models that have been titled previously to an ultimate purchaser, manufacturers and distributors and other types subject to Certificate of Title Law and Title 32 and/or Vehicle Registration Tax under Title 47. All new and unused vehicle dealers and other dealers licensed by the Louisiana Motor Vehicle Commission are excluded from licensing by the Louisiana Used Motor Vehicle and Parts Commission.

C. ...

D. Automotive dismantlers and parts recyclers, motor vehicle crushers, motor vehicle scrap dealers, motor vehicle shredders.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773 A.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§2905. Qualifications and Eligibility for Licensure

A. - D. ...

E. Dealers in new and used motor homes, new and used boats, new and new boat motors, new and used motorcycles, new and used all-terrain vehicles, new and used semi-trailers, new and used recreational trailers, new and used boat trailers, new and used travel trailers, new and used buses, new and used fire trucks, new and used wreckers likewise must meet the above qualifications to be eligible and all these types license numbers will be prefixed by NM, followed by a four digit number then the current year of license (NM-0000-98). Semitrailers are described in the title law as every single vehicle without motive power designed for carrying property and passengers and so designed in conjunction and used with a motor vehicle that some part of its own weight and that of its own load rests or is carried by another vehicle and having one or more load carrying axles. This includes, of course, recreational trailers, boat trailers and travel trailers, but excludes mobile homes. One license shall be due for new and used operators at the same location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:

§3303. Qualifications and Eligibility for Licensure

A. - C. ...

D. An automotive dismantler and parts recycler may offer a rebuilt wrecked, abandoned or repairable motor vehicle at wholesale only. If such vehicle is offered for sale at retail, the dismantler will be operating as a used motor vehicle dealer and is subject to licensing requirements and used motor vehicle dealer rules and regulations thereof. However, an automotive dismantler and parts recycler, duly licensed by the commission, shall have the authority to transfer the certificate of title as a dealer under the Louisiana Certificate of Title Law, (i.e., transfer to another dealer without payment of tax). In order to sell a vehicle at retail, an automotive dismantler and parts recycler must be licensed hereunder as a used motor vehicle dealer providing a good and sufficient bond, executed by the applicant as principal by a surety company qualified to do business as surety in the sum of $10,000.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772 F.(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:

Interested persons may submit written comments no later than 30 days from the date of publication of the notice of intent to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA 70808, (504) 925-3870.

John M. Torrance
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Meetings and Licensure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A total of $6,188.00 for FY 97-98 will be saved by the repeal of the issuance of Identification Cards. This total includes the printing of 11,502 Identification Card forms and 250 envelopes ($5,127.00) and the cost of postage for the mailing of 250 envelopes ($1,061.00). In addition, the office workload will be decreased since it takes approximately eleven days to complete this project. Approximate savings of $6,435.52 for FY 98-99 and $6,692.94 for FY 99-2000 will be realized by the commission through the repeal of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Neither state nor local revenues will be affected as a result of the rules proposed for repeal and amendment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No impact on receipts of income will result from the proposed rule changes. Licensees will no longer be required to carry Identification Cards issued by this Agency when conducting business at a used motor vehicle auto auction.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not impact competition and employment in the public or private sector.

John M. Torrance
Executive Director
9806#041

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Science Graduation Requirements

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, a proposed revision to Bulletin 741—Louisiana Handbook for School Administrators. Bulletin 741 is referenced in the Louisiana Administrative Code 28:I.901.A. The requirement will become effective for incoming freshmen l999-2000 and will require students to have at least one Carnegie Unit of credit in the Physical Science domain. The policy change does not change the number of required units. The number of required units will remain at three. The amendment to the High School Program of Studies will include:

1. the required Biology will now be Biology I;
2. the course title General Science will be replaced with Integrated Science; and
3. the course title Vocational Agriculture will be replaced with Agriscience.

The policy change will align the science graduation requirements with the new state science standards and state assessment. Changes to Bulletin 741 under Minimum Requirements for High School Graduation are as follows:

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 3761-3764.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education LR 24:

Bulletin 741: School Approval Standards and Regulations

* * *

High School Program of Studies

* * *

Science 3 units

(Effective for Incoming Freshmen 1999-2000 and thereafter)

Shall be:

1 unit of Biology I;

1 unit of Physical Science (Physical Science or Integrated Science (not both); Chemistry I, Physics I, or Physics for Technology I) [1]

1 unit from Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics for Technology II, Agriscience I [2], Agriscience II [2], or any other course not already taken from the Physical Sciences cluster.[3]

[1] If a student takes Physical Science or Integrated Science, s/he may then take Chemistry I, Physics I, or Physics of Technology I as an elective. If a student takes Chemistry I, Physics I, or Physics for Technology I to fulfill the Physical Science requirement, s/he may not then take Physical Science or Integrated Science as an elective.

[2] Both Agriscience I and II must be completed for one unit of science credit.

[3] Additional local electives that have been approved for science credit by the SDE may be offered. All advanced placement science courses will be accepted for credit.

Science

2.105.20 Three units of science shall be required for graduation. They shall be:

1 unit of Biology I;

1 unit of Physical Science or Integrated Science (but not both), Chemistry I, Physics I, or Physics for Technology I; and

1 unit of Aerospace Science, Biology II, Chemistry I (may be taken after Physical Science or Integrated Science), Chemistry II, Earth Science, Environmental Science, Physics I (may be taken after Physical Science or Integrated Science), Physics II, Physics for Technology I, Physics for Technology II, or both Agriscience I and II to meet one required unit of science.

Course Title	Unit(s)
Aerospace Science	1.0
Agriscience I and II	1.0 (both courses are required for one unit)
Biology I, II	1.0 each
Chemistry I, II	1.0 each
Earth Science	1.0
Environmental Science	1.0
Integrated Science	1.0
Physical Science	1.0
Physics I, II	1.0 each
Physics for Technology I, II	1.0 each

* * *

Interested persons may submit written comments until 4:30 p.m., July l0, 1998 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Science Graduation Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to state or local governmental units is $100.00 to update and disseminate the changes to Bulletin 741.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affect persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance

Richard W. England
Assistant to the
Legislative Fiscal Officer

9806#047

NOTICE OF INTENT

Department of Environmental Quality
Office of Water Resources
Water Quality Management Division

Mermentau River Basin Use Attainability Analysis (LAC 33:IX.1123)(WP029)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1123.C.3 (Log Number WP029).

As part of the Louisiana Water Quality Management Plan the state publishes a list of priority water bodies biennially under Clean Water Act (CWA) section 305(b). In accordance with CWA section 303(d), water bodies are placed on the list of priority water bodies because assessment methodology indicates they do not meet applicable water quality standards. After further review and assessment, some of these water bodies may be prioritized for field work, Use Attainability Analyses (UAAs), and if appropriate, water body modeling for Total Maximum Daily Loads (TMDLs). However, until a UAA is conducted to determine the "attainable" uses and criteria, a TMDL based upon national criteria may be inappropriate for many water bodies. Water bodies which have been classified as the highest priority on Louisiana's 1998 303(d) list include six streams in the Mermentau River Basin:

Bayou Des Cannes—headwaters to Mermentau River, 050101; Bayou Plaquemine Brule—headwaters to Bayou Des Cannes, 050201; Bayou Nezpique—headwaters to Mermentau River, 050301; Mermentau River—origin to Lake Arthur, 050401; Bayou Queue de Tortue—headwaters to Mermentau River, 050501; and Lacassine Bayou—headwaters to Grand Lake, 050601. A UAA has determined that naturally dystrophic waters critical periods for dissolved oxygen (DO) occur in the months of March through November in these six Mermentau River water body segments. However, while these waters bodies may experience naturally occurring seasonal variations in DO, no changes in designated uses are being proposed. The recommended DO criteria are:

December through February	5.0 mg/L; and
March through November	3.0 mg/L.

The UAA presents the required information for a site specific water quality standard revision to the DO standard in accordance with state and federal water quality regulations, policies, and guidance.

The basis and rationale for this proposed rule are to comply with the CWA and achieve the national goal of attaining water quality which provides for the protection and propagation of fish, shellfish, and wildlife, and provides for recreation in and on the water. Analyses of use attainability are conducted by the department to determine the uses and criteria an individual water body can attain. The UAA process entails the methodical collection of data which is then scientifically analyzed and summarized and used to establish site-specific uses and criteria.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

TITLE 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality Regulations
Chapter 11. Surface Water Quality Standards
§1123. Numerical Criteria and Designated Uses

* * *

[See Prior Text in A - C.2]

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "DESIGNATED USES."

A—Primary Contact Recreation
B—Secondary Contact Recreation
C—Propagation of Fish and Wildlife
L—Limited Aquatic Life and Wildlife Use
D—Drinking Water Supply
E—Oyster Propagation
F—Agriculture
G—Outstanding Natural Resource Waters

Numbers in brackets (e.g. [1])—refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses

Code	Stream Description	Designated Uses	Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
	ATCHAFALAYA RIVER BASIN (01)								

* * * [See Prior Text in 010101 - 042209]									
	MERMENTAU RIVER BASIN (05)								
050101	Bayou Des Cannes - Headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260
* * * [See Prior Text in 050102 - 050103]									
050201	Bayou Plaquemine Brule - Headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0-8.5	1	32	260
050301	Bayou Nezpique - Headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260
* * * [See Prior Text in 050302 - 050304]									
050401	Mermentau River - Origin to Lake Arthur	A B C F	90	30	[16]	6.0-8.5	1	32	260
* * * [See Prior Text in 050402]									
050501	Bayou Queue de Tortue - Headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260
050601	Lacassine Bayou - Headwaters to Grand Lake	A B C F	90	30	[16]	6.0-8.5	1	32	400
* * * [See Prior Text in 050602 - 120806]									

ENDNOTES:

* * *

[See Prior Text in [1] through [15]]

[16] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/L December - February, 3 mg/L March - November.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR:

A public hearing will be held on July 27, 1998, 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, 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 WP029. Such comments must be received no later than August 3, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of WP029.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.:

7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at http://www.deq.state.la.us/olae/irdd/olaeregs.htm.

Linda Korn Levy
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Mermentau River Basin Use Attainability Analysis

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect of this proposed rule on state or local governmental expenditures is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect on state or local governmental revenue collections is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits to directly affected persons or nongovernmental groups are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition and employment is anticipated.

Linda Korn Levy	Richard W. England
Assistant Secretary	Assistant to the
9806#027	Legislative Fiscal Officer

NOTICE OF INTENT

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Election Nominations and Committee; Ballot Procedure; Board Member Installation; Inquiries and Special Elections (LAC 58:V.1701-1711)

The Board of Trustees of the Firefighters's Pension and Relief Fund for the City of New Orleans and Vicinity ("Fund"), pursuant to R.S. 11:3363(F), proposes to adopt rules of regulations regarding the conduct of nominations and election of Trustees to the Board of the Fund from the ranks of eligible active and retired members of the New Orleans Fire Department. These rules seek to regulate the election process conducted pursuant to R.S. 11:3362(A) and (B), by providing safeguards for the secrecy of the ballot and integrity of the system of ballot tabulation.

Title 58
RETIREMENT
Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity
Chapter 17. Election Rules

§1701. Nominations

A. Election for positions on the Board of Trustees as described in R.S. 11:3362(A)(2) and (3) will be held in the second week of December every two years on odd numbered years. Elected members will be seated on the second Wednesday in January of the following year.

B. Notices for nomination will be carried in monthly Fund minutes, beginning in August of any election year.

C. Nominations for vacant positions will be accepted from eligible members in writing during the second week in November (Monday-Friday, 9 a.m.-4 p.m.) in the Fund office. The Fund office will forthwith notify all nominees of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:

§1703. Election Committee

All members nominated for the Board will automatically become members of the election committee for the election in which they have been nominated. The committee will serve until the next election is held. On the Wednesday following the close of nominations, the election committee will meet to review all the rules of the election. The committee can discuss procedures but will not have the authority to change any rules for any election. Any committee member may offer recommendations or rule changes for any subsequent election, which shall be recorded in the minutes of the committee or a special report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:

§1705. Ballot Procedure

A. Ballots with security envelopes and return envelopes will be mailed out on the fourth Monday in November, subject to the following controls.

1. Outgoing postage receipt of total mailing will be kept at the pension office.

2. The listing of all members mailed ballots will be kept at the pension office. Any member may inspect, but not copy, the voter mailing list.

3. The election committee will make available to members with the number of names added to the list after the initial mailing and the number of duplicate ballots mailed to members who did not receive the original ballot.

4. The election committee will account for all ballots (used and unused).

B. All ballots must be returned, signed, no later than 4 p.m. on the second Wednesday in December, subject to the following controls.

1. Ballots will be verified for eligibility by pension office staff daily.

2. The election committee will have authority to check for eligibility prior to counting of ballots.

3. A current account of envelopes returned will be preserved.

4. Ballots will be placed in two secured ballot boxes at the pension office. Separate boxes will be maintained for active and retired members.

5. Each ballot box will be secured with two different locks. The election committee will designate two incumbent members and two non-incumbent member nominees to control the keys to all four locks.

C. The following voting instructions and procedures shall apply.

1. Each member will receive an official ballot with voting instructions.

2. A blank security envelope and a self-addressed stamped envelope addressed to:

Firefighters' Pension and Relief Fund
329 South Dorgenois Street
New Orleans, LA 70119

3. Members must vote for only the specified number of candidates in the appropriate sections. Members may vote for less than the specified number, however, voting in excess of the specified number, in the appropriate section, will spoil the ballot for that section.

4. Members should place their ballot in the security envelope, then seal the envelope. The security envelope should

then be placed inside the self-addressed, stamped envelope.

5. Members must sign the self-addressed envelope in the upper left corner in the space provided. A member's signature shall serve as proof of eligibility. Any envelopes not signed will be rejected.

6. All ballots must be returned signed, to the fund office, no later than 4 p.m. on the second Wednesday in December.

D. All ballots will be counted at the Fund Office at 9 a.m. on the Thursday following the deadline for ballots to be returned, subject to the following conditions.

1. The election committee shall report to the pension office no later than 8:30 a.m.

2. The election committee is to oversee the counting of ballots.

3. The election committee is responsible for accuracy of votes counted.

E. Envelopes and ballots will be maintained and preserved at the pension office for three months following any election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:

§1707. Installation of Elected Members

Newly elected board members will be seated at the meeting held on the second Wednesday in January of the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:

§1709. Election Inquiries

A. Any questions from members regarding the election should be directed to the election committee, in writing, addressed care of the Fund Secretary-Treasurer.

B. The election committee may propose comments, suggestions and recommendations on any changes for the next election to be held following the election under its supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:

§1711. Special Elections

Special elections must be called within 30 days of any vacancy on the board, caused by death, resignation or otherwise. The foregoing rules for regular elections shall apply to all special elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:

Interested persons may submit questions or written comments to: Richard J. Hampton, Jr, Secretary-Treasurer of the Board of Trustees, 329 Dorgenois Street, New Orleans, LA, before 5 p.m., July 18, 1998.

Richard Hampton
Secretary-Treasurer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Election Nominations and Committee; Ballot Procedure; Board Member Installation; Inquiries and Special Elections

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will have no impact on State or local governmental costs. The rule change will merely establish firm procedures for the collection and tabulation of voter's ballots. These procedures will not affect the costs associated with nominating and electing Trustees to the Fund.

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 posed by adoption of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons by adoption of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment by the proposed rule's adoption.

Louis L. Robein
Designee/Fund Attorney
9806#073

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor
Office of Elderly Affairs

Adult Protective Services for
the Elderly (LAC 4:VII.1239)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend §1239, "Adult Protective Services for the Elderly," effective September 20, 1998. The purpose of this rule change is to improve the efficiency of program operations and clarify existing policy. The proposed rule change will (1) identify Elderly protective Services as the agency statutorily authorized to protect the elderly as opposed to Adult Protective Services; (2) update definitions to conform to current statutory language in related legislation; and (3) create a policy for Complaints against Elderly Protective Services. This rule complies with LA R.S. 14:403.2.

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 11. Elderly Affairs
Subchapter D. Service Provider Responsibilities
§1239. Adult Protective Services for the Elderly

A. Overview of Elderly Protective Services

1. Purpose. The purpose of Elderly Protective Services (EPS) is to protect adults who cannot physically or mentally protect themselves and who are harmed or threatened with harm through action or inaction by themselves or by the individuals responsible for their care or by other persons.

2. Goal and Objectives

a. The goal of Elderly Protective Services is to assure that adults in need of protection are able to maintain the highest quality of life in the least restrictive environment appropriate to their individual capabilities and life style and wishes.

b. The objectives of Elderly Protective Services are:

i. - v. ...

3. Philosophy

a. The following principles are basic to the delivery of Elderly Protective Services:

i. - ii. ...

iii. a client has the right to make decisions on his/her own behalf unless it is clearly evident to EPS that he/she is unable to do so, or until the court grants that responsibility to another individual;

iv. ...

4. Client Rights

a. The elderly protective services client, if mentally able, has the right to:

i. - iv. ...

v. withdraw from or refuse consent for protective services if the law has not been broken and the elderly client has the capacity to refuse services.

5. Framework for Elderly Protective Services

a. The principles of family based services provide the framework for elderly protective services. Family based services are designed to provide the maximum services to a family at the time of crisis to prevent the breakup of the family unit. This approach to the delivery of social services focuses on families rather than individuals. Services in this context are intended to strengthen and maintain families and prevent family dissolution and out of home placement of the adult.

b. Elderly protective services assist families in regaining or maintaining family autonomy while at the same time assuring the protection of individuals.

c. ...

6. Definitions

Abandonment—the withdrawal of support, care, or responsibility for an elderly adult without intending to return.

Abuse—the infliction of physical or mental injury on an adult by other parties, including but not limited to such means as sexual abuse, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered.

Adult—any individual eighteen years of age or older or an emancipated minor.

Capacity to Consent—the ability to understand and appreciate the nature and consequences of making decisions concerning one's person, including but not limited to provisions for health or mental health care, food, shelter, clothing, safety, or financial affairs. This determination may be based on assessment or investigative findings, observation, or medical or mental health evaluations.

Caregiver—any person or persons, either temporarily or permanently responsible for the care of an elderly person.

Caregiver Neglect—the inability or unwillingness of the caregiver to provide for basic needs (food, clothing, medicine, etc.) of an elderly person.

Collateral ...

Coordinating Counsel—according to R.S. 14:403.2 EPS is to form regional coordinating counsels to maximize community input into program operations.

Curator (Guardian) ...

Elderly ...

Elderly Protection Agency—the Office of Elderly Affairs in the Office of the Governor (GOEA) for any individual sixty years of age or older in need of elderly protective services as provided in this Section. The Department of Health and Hospitals is the Adult Protection Agency for any individual between the ages of eighteen and fifty-nine years of age in need of adult protective services as provided in this Section.

Exploitation—the illegal or improper use or management of an elderly person's assets, or property, or the use of an elderly person's power of attorney or guardianship for one's own profit or advantage.

Extortion ...

Incompetency ...

Interdict (Ward) ...

Interdiction (Guardianship)—a judicial proceeding which authorizes a court, upon petition, to appoint a curator (guardian) for a person found to be incapable of managing his/her person, estate, or property because of mental deficiency, deviation or physical infirmity. (In accordance with the Civil Code Articles 389-426.)

Neglect ...

Physical Abuse ...

Protective Services—include but are not limited to:

i. conducting investigations and assessments of complaints of possible abuse, neglect, or exploitation to determine if the situation and condition of the adult warrant further action;

ii. preparing a social services plan utilizing community resources aimed at remedying abuse, neglect, and exploitation;

iii. case management to assure stabilization of the situation;

iv. referral for legal assistance to initiate any necessary extrajudicial remedial action.

Provisional Curator—an individual appointed by the court to manage the affairs and/or person of the interdict. The authority of the provisional curator expires thirty days after

the date of appointment or when a curator is appointed. (In accordance rev Civil code Articles 389-426.)

Regional Office—one of the seven (7) EPS Region offices located throughout the state. Region 1, New Orleans; Region 2, Baton Rouge; Region 3, Lafayette; Region 4, Lake Charles; Region 5, Alexandria; Region 6, Monroe; Region 7, Shreveport.

Self-Neglect—the failure, either by the adult's action or inaction, to provide the proper or necessary support or medical, surgical or any other care necessary for his/her own well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall for that reason alone be considered to be self-neglected.

Sexual Abuse ...

7. Legal Basis

a. R.S. 14:403.2 provides the statutory authority for elderly protective services. The intent of the law is to authorize the least possible restriction on the exercise of personal and civil rights consistent with the adult's need for services and to require that due process be followed in imposing such restrictions.

b. The major areas covered by R.S. 14:403.2 include:

i. Responsibilities of the Elderly Protection Agency—GOEA is responsible for the provision of elderly protective services to persons age 60 or older. These services shall include a prompt investigation and assessment;

ii. - iii. ...

iv. Consent to Service—Protective services may not be provided in cases of self neglect to any adult who does not consent to such service or who, having consented, withdraws such consent based on the functional capacity of the individual.

B. Confidentiality

1. For purposes of elderly protective services, confidentiality is defined as the protection of social and other information concerning an adult, his/her family and his/her situation which is disclosed to the EPS program/worker by the elder, the reporter and/or collaterals. The intent of confidentiality is to prevent information and/or records concerning an elder from being released to persons who have no legitimate need for or right to such information and/or records.

2. When making a determination regarding release of the elderly case information, the following criteria shall be considered:

a. has the elder, or his/her legally authorized representative consented to the release of the information;

b. ...

c. if the elder lacks the capacity to consent and has no legally authorized representative, will the release of the information directly benefit the adult, facilitate treatment, or prevent or ameliorate the abuse/neglect/exploitation problem?

3. If the answer to any of the questions in Paragraph 2 of this Subsection is yes, the information may be released. If there are any questions regarding whether information should be released, the information shall not be released without supervisory and/or legal consultation with the GOEA staff attorney.

4. ...

C. Intake

1. ...

2. Eligibility for Elderly Protective Services. To be eligible to receive protective services through GOEA the adult must be:

a. - b. ...

c. alleged to be unable to provide for his/her own well being which results in danger to his/her own health and/or safety; and/or

d. alleged to be unable to protect him/herself from abuse/neglect/financial exploitation.

3. Types of Abuse/Neglect Accepted for Investigation

a. - f. ...

g. Abandonment.

4. - 6.a. ...

b. Subsequent. A report of another incident of abuse/neglect involving the same adult while the case is open which alleges a type of abuse/neglect different from the Initial Report. The EPS worker responsible for the case shall investigate all Subsequent Reports as if they were Initial Reports.

6.c. - d. ...

7. Nonacceptance of a Report

a. When a report is not accepted for investigation, the EPS worker shall advise the reporter of the reason for nonacceptance and will provide the following, as appropriate:

i. - ii. ...

ii. referral to a law enforcement agency or to the district attorney;

iii. referral to the appropriate agency for investigation if the client is not within the jurisdiction of the EPS program.

b. ...

D. Investigation Procedures

1. Priorities for Investigation of Cases. Cases accepted for investigation shall be prioritized as high, medium and low according to the severity of factors of abuse/neglect based on information provided by the reporter and other sources. The priority level of the case determines the time frame and agency commitment of staff and resources for the investigation. Investigation of low and medium priority cases may be limited if all EPS workers in a regional office have 35 active cases in any one month period.

2. - 3.c. ...

4. Determination of Appropriate EPS Regional Office to Investigate the Report.

a. The EPS Regional Office responsible for the investigation shall be the one which serves the parish in which the adult normally resides.

b. If the adult's residence changes to another region before completion of the investigation, the original EPS worker will be responsible for the case unless it is determined that distances between offices are too great.

5. - 6. ...

7. Report to the District Attorney. A report shall be sent to the district attorney on all cases where it appears after investigation that an adult has been abused and neglected by

a third party or parties and that the problem cannot be remedied by EPS through extrajudicial means. A list of services which are available to ameliorate the abuse and neglect situation shall be provided in the report. Such reports shall be reviewed and approved by the EPS Program Manager or his/her designee prior to referral.

8. Exceptions to EPS Investigation Procedures.

a.i. ...

ii. Licensed and Certified Nursing Facilities (includes all Title XIX Facilities). Allegations of abuse/neglect of an adult who resides in a nursing facility shall not be accepted for investigation except as provided below. Reporters will be referred to the Department of Health and Hospitals, Bureau of Health Standards, Baton Rouge, LA and/or to the State Long Term Care Ombudsman Program. The exception to this rule is in cases where a resident of a nursing facility is alleged to be abused or exploited by someone visiting the facility or while visiting outside the facility.

iii. ...

b. Accepted for investigation:

i. Adult Residential Care Home. Allegations of abuse/neglect of an adult who resides in a board and care home will be accepted for investigation. Such reports should also be reported to the Department of Social Services, Division of Licensing, and the State Long-Term Care Ombudsman Program.

E.1. ...

2. Service Plan

a. Development. The service plan is the basis for the activities that the EPS worker and service providers will undertake. The focus of the service plan is time limited and it is expected that involvement of the EPS worker in the case will not exceed three months. Therefore, time frames for service delivery which require EPS worker participation should take this limitation into consideration.

b. ...

F. Complaints Against Elderly Protective Services (EPS)

1. For purposes of this policy the following definitions apply:

a. *Complaint*—any allegation of wrongdoing of misconduct by EPS. Complaints may submitted orally or in writing.

b. *Misconduct*—any action by an Elderly Protective Services Investigator which is considered detrimental to the welfare of an elderly person that is in violation of laws and regulations that govern the EPS Program, including Section 721 of the Older Americans Act, LA R.S. 14:403.2 et seq., and LAC 4:VII.1229.

Any complaint or allegation of misconduct should be referred to the EPS Regional Supervisor who will subsequently investigate these complaints. Following the Regional Supervisor's investigation of said complaint, the information will be forwarded to the EPS Director for review and disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:327 (March 1993), amended LR 20:543 (May 1994), LR 24:

Robert Seemann, Elderly Protective Services Program Director, is responsible for responding to inquiries concerning the proposed rule. Interested parties may submit written comments to the Governor's Office of Elderly Affairs, PO Box 80374, Baton Rouge, LA 70806. Written comments will be accepted until 5:00 p.m. July 29, 1998. A public hearing on this proposed rule will be held on July 29, 1998 at 412 North 4th Street, Baton Rouge, LA, at 10:00 a.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at this hearing.

P.F. "Pete" Arceneaux, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Adult Protective Services for the Elderly

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the proposed rule changes will not result in costs or savings to state or local governmental units. The proposed amendments will: identify Elderly Protective Services as the entity statutorily authorized to protect the elderly; update policy manual definitions to conform to current statute; and create a policy for complaints against Elderly Protective Services.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not affect competition and will have no impact on employment.

P.F. "Pete" Arceneaux
Executive Director
9806#063

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor
Office of Elderly Affairs

Long Term Care Assistance Program (LAC 4:VII.1237)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend §1237,

"Long Term Care Assistance Program," effective September 20, 1998. The purpose of this rule change is to modify §1237.E to specify how the benefits paid to program participants shall be established. This rule complies with R.S. 40:2802.

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 11. Elderly Affairs
Subchapter D. Service Provider Responsibilities
§1237. Long Term Care Assistance Program

A. - D.2.d. ...

E. Program Benefits

1. In accordance with R.S. 40:2802(c), the benefits under the program shall be established by the Commissioner of Administration, with an upper limit of $350 per participant per month. The rate shall be set by the Commissioner with oversight by the Senate and House Committee on Health and Welfare, through rules and regulations.

E.2. - F.2. ...

G. Eligibility Determinations

1. The agency shall provide written notification to each applicant found to be ineligible within thirty (30) days of receipt of application.

2. Those applicants found to be eligible will begin receiving reimbursements within thirty (30) days of receipt of application.

3. Prior to making a final determination, the agency shall return applications which are incomplete or questionable (e.g., expenses reported exceed all income) for additional information.

4. Redetermination of Eligibility

a. If an applicant is determined ineligible for benefits under this program because (s)he does not meet the requirements in §1237.D.1, and the applicant's circumstances change, the applicant may reapply in accordance with §1237.F.

b. A redetermination of eligibility for this program shall be made based upon the current financial status of the applicant.

H.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November 1992), amended LR 19:627 (May 1993), LR 24:

Steven Beck is the person responsible for responding to inquiries concerning the proposed rule. Interested parties may submit written comments to the Governor's Office of Elderly Affairs, PO Box 80374, Baton Rouge, LA 70806. Written comments will be accepted until 5:00 p.m. July 29, 1998. A public hearing on this proposed rule will be held on July 29, 1998 at 412 North 4th Street, Baton Rouge, LA, at 10:00 a.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at this hearing.

P.F. "Pete" Arceneaux, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Long Term Care Assistance Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the proposed rule changes will not result in costs or savings to state or local governmental units. This revision will modify §1237 of the GOEA Policy Manual, "Long Term Care Assistance Program", to specify how the benefits paid to program participants shall be established.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This change will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This change will not affect costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not affect competition or employment.

P.F. "Pete" Arceneaux
Executive Director
9806#070

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor
Office of Elderly Affairs

Long Term Care Ombudsman (LAC 4:VII.1229)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend §1229 of the GOEA Policy Manual effective September 20, 1998. The purposes of this amendment are to update definitions to conform to current related statutory language; to modify the provisions for designation of local ombudsman entities; to create separate visitation standards for adult residential care facilities and skilled nursing facilities in hospitals and rehabilitation centers; and to modify the on-going training requirements for ombudsmen. This rule complies with Section 701 of the Older Americans Act.

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 11. Elderly Affairs
Subchapter D. Service Provider Responsibilities
§1229. Office of the State Long Term Care Ombudsman

A. - B.1. ...

2. a nursing facility as defined in Section 1919(a) of the Social Security Act;

3. a nursing home as defined in Section 1098(3) of the Social Security Act;

4. any nursing home or adult residential care home licensed by the state or required to be licensed by the state under the terms of R.S. 40:2009.12, and R.S. 40:2151-2163.

C.1. - 4. ...

5. to provide information to public agencies, legislators, the general public, the media and others, as deemed necessary and feasible by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

C.6. ...

7. to coordinate ombudsman services with the protection and advocacy systems for individuals with disabilities established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.), under the Protection and Advocacy of Mentally Ill Individuals Act of 1986 (42 U.S.C.10801 et seq.); and under the Protection and Advocacy of Individual Rights (29 U.S.C. 794(e)); and

8. to include any area or local ombudsman entity designated by the State Long Term Care Ombudsman.

D.1. - D.2.a.vii. ...

b. The State Ombudsman shall designate each local ombudsman entity. Any representative (as defined in R.S. 40:2010.1) of an entity so designated (whether an employee or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this Section.

D.2.c.i. ...

ii. submit for approval by the State Long Term Care Ombudsman a written plan of visitation which provides for regular visitation to each facility in the service area by program personnel. Every facility must be visited by a certified ombudsman at least once per month, except that skilled nursing facilities located in hospitals and rehabilitations centers not otherwise licensed as long-term care facilities must be visited a minimum of once every six months and adult residential care homes must be visited at least quarterly unless conditions warrant more frequent visitation. The plan of visitation shall be incorporated into the contract with GOEA.

C.2.c.iii. - E.2.a.i. ...

ii. college credit may be substituted for the service requirement at the discretion of the State Ombudsman.

E.2.b.i. - v. ...

vi. to visit in each long term care facility within the service area at least once a year;

E.2.b.vii. - E.3.a.i. ...

ii. comparable experience may be substituted for the educational requirement at the discretion of the State Ombudsman.

E.3.b.i. - 4.b.vi. ...

vii. to attend at least six hours of training a year on topics related to nursing homes, aging, managed care and the ombudsman program.

F.1. - 2.a. ...

b. The ombudsman shall be assigned to a long term care facility(ies) by the State Ombudsman after consultation with the ombudsman, and the ombudsman coordinator. The administrator of the long term care facility where the ombudsman is assigned shall be so informed by the State Ombudsman.

F.2.c. ...

3. Training

a. Individuals shall be certified as ombudsmen upon successful completion of the ombudsman certification training program. The training program consists of four components: an orientation program, a twenty-six hour training program, an examination, and an internship in a long term care facility. The State Ombudsman or his designee shall conduct the certification program. Trainees must meet the minimum personnel qualifications specified in §1229.E.3.a.

F.3.b.i. - x. ...

xi. ombudsman policies and procedures;

xii. investigative techniques; and

xiii. managed care.

c. Certification must be renewed annually. Renewal is based on successful completion of at least fifteen (15) contact hours of in-service training each year and on adherence to ombudsman policies and procedures. At least six (6) hours of this training must be sponsored by the Office. The remainder may be earned by attending any relevant training, subject to the conditions described below. If requirements for the current year have been met, hours earned during the final quarter of a calendar year may be carried over to the following year.

F.3.d. - 4.c. ...

d. Each trainee may take the examination no more than three times, without repeating the classroom component of the training. All attempts must be made within one year of the completion of the classroom component of the training. The recommendation of the Coordinator and the permission of the State Ombudsman are required before a trainee can repeat the classroom component.

F.5. - H.1. ...

2. Records. Records may be reviewed only with the written consent of the resident or the resident's legal representative. The ombudsman may review those portions of a resident's records which are relevant to resolving a specific problem. If a resident is unable to consent to such review and has no legal representative, the ombudsman shall have access to the resident's medical and social records.

I. - L.2.b.iv. ...

c. Complaints about a Coordinator

i. Complaints about a Coordinator should be directed to the State Ombudsman. Upon receipt of a complaint, the State Ombudsman shall notify the Coordinator and his/her immediate supervisor of the complaint; conduct an investigation to determine whether the complaint is valid; advise the following persons of the findings: the complainant, the Coordinator, and the director and/or other supervisory staff of the local designated ombudsman entity; and take appropriate action to remedy the situation.

ii. If the State Ombudsman fails to respond to or act upon a complaint within 30 days, the person filing the complaint may refer the complaint to the director of the Office of Elderly Affairs.

L.2.d. - 3.c.iv. ...

d. Grievances against a Coordinator. Grievances

against a Coordinator must be submitted to the State Ombudsman. Upon receipt of the grievance, the State Ombudsman shall submit a copy of the grievance to the Coordinator and his/her immediate supervisor; request that the Coordinator submit a written response within 10 working days; inform the Coordinator and the complainant of the date by which a decision shall be issued; investigate the allegation stated in the grievance; consider the relief sought by the complainant; and issue a written decision.

L.3.e. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:2010.4 and OAA Section 712(a)(5)(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:35 (January 1985), LR 11:1078 (November 1985), LR 13:742 (December 1987), LR 15:379 (May 1989), LR 17:600 (June 1991), LR 18:267 (March 1992), LR 24:

Ms. Linda Sadden, State Long Term Care Ombudsman, is responsible for responding to inquiries concerning the proposed rule. Interested parties may submit written comments to the Governor's Office of Elderly Affairs, PO Box 80374, Baton Rouge, LA 70806. Written comments will be accepted until 5:00 p.m. July 29, 1998. A public hearing on this proposed rule will be held on July 29, 1998 at 412 North 4th Street, Baton Rouge, LA, at 10:00 a.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at this hearing.

P.F. "Pete" Arceneaux, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Long Term Care Ombudsman

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the proposed rule changes should result in modest cost savings in travel for local ombudsman entities; however, the exact amount is unknown. The proposed rules reduce required visitation to adult residential care facilities from monthly to quarterly and reduce required visitation to skilled nursing facilities from monthly to once every six months.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the proposed rule changes will not affect competition or employment.

P.F. "Pete" Arceneaux
Executive Director
9806#068

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor
Office of Elderly Affairs

Senior Community Service
Employment Program (LAC 4:VII.1231)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend §1231 of the GOEA Policy Manual effective August 20, 1998. The purposes of this amendment are: to redefine the terms for participation in the Older Americans Act Senior Community Service Employment Program; to redefine enrollment priorities and benefits to participants; and to establish the goal for placement at 20 percent of the number of enrollees. This rule complies with Title V of the Older Americans Act (Sections 501-508).

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 11. Elderly Affairs
Subchapter D. Service Provider Responsibilities
§1231. Senior Community Service Employment Program

A. ...

B. Program Administration. This program is funded by the U.S. Department of Labor. The Governor's Office of Elderly Affairs administers the program in the southeastern portion of Louisiana through three subgrantees. The balance of the state is served under the administration of seven national contractors:

1. Green Thumb;
2. the National Council on Aging;
3. the National Council of Senior Citizens;
4. the National Association of Hispanic Elderly;
5. the U.S. Forest Service;
6. the American Association of Retired Persons; and
7. the National Indian Council on Aging.

Slots are distributed by parish according to an equitable distribution formula. All organizations administering the Senior Community Service Employment Program are expected to comply with the distribution formula. The formula was developed by the sponsoring organizations and is reviewed annually by that group.

C. Definitions

* * *

Grantee—an eligible organization which has entered into an agreement with the U.S. Department of Labor.

Host Agency—a public agency or a private non-profit organization, other than a political party or any facility used or to be used as a place for sectarian religious instruction or worship and is exempt under 501(c)(3) of IRS Code, which provides a work site and supervision for an enrollee.

Subgrantee—an eligible organization which has a contractual agreement with the grantee to deliver services on

the local level. Potential providers are required to show proof of IRS classification 501(c)(3).

* * *

D. Eligible Applicants for Subgrantee Status

1. - 7. ...

E. Application Procedure. Organizations must submit an application in the form designated by the grantee to be considered for subgrantee status.

F. Program Description

1. Enrollees are selected according to income guidelines, residence and age. Enrollment priorities shall be:

a. eligible individuals with greatest economic need;

b. eligible individuals age 60 and older; and

c. eligible individuals seeking re-enrollment.

2. Enrollees shall be offered a physical examination prior to participation in the program. Physical examinations are furnished at no cost to the enrollees and are offered only as a fringe benefit. When an enrollee objects to a physical examination, a written statement or waiver must be properly documented and signed.

3. As soon as possible after completion of enrollee's orientation and training, the subgrantee, in conjunction with the grantee, shall assign the enrollee to useful part-time community service employment in non-profit host agency. Subgrantees shall continually work toward placing enrollees in unsubsidized employment, thereby creating additional opportunities for persons to enroll. The goal for placement is 20 percent of the number of enrollees.

4. ...

5. Enrollees shall not be required to work more than 20 hours during one week. Shorter hours may be authorized by the subgrantee by means of a written agreement with the enrollee.

6. ...

7. Community service employment of an enrollee shall not result in the displacement of currently employed workers.

G. Monitoring of the Governor's Office of Elderly Affairs Subgrantees

1. Subgrantees funded through the Governor's Office of Elderly Affairs shall submit monthly and/or quarterly program reports to the Governor's Office of Elderly Affairs by the 10th working day of each month. Reports shall reflect current enrollment, placements, follow-ups and include a narrative description of activities conducted during the month.

2. Monthly financial reports shall be submitted by the subgrantee in the form designated by the Governor's Office of Elderly Affairs.

3. The Governor's Office of Elderly Affairs shall conduct biennial assessments to ensure that its subgrantees are performing in accordance with Senior Community Service Employment Program rules and regulations.

H. Project Termination. The grantee has the authority to terminate any of its contracts with a subgrantee which is not operating in accordance with Senior Community Service Employment Program rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 501, 20 CFR Part 674 and 20 CFR Part 89.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 24:

Ms. Rosemary Davis, State Title V Director, is responsible for responding to inquiries concerning the proposed rule. Interested parties may submit written comments to the Governor's Office of Elderly Affairs, PO Box 80374, Baton Rouge, LA 70898-0374. Written comments will be accepted until 5:00 p.m. July 29, 1998. A public hearing on this proposed rule will be held on July 29, 1998 at 412 North 4th Street, Baton Rouge, LA, at 10:00 a.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at this hearing.

P.F. "Pete" Arceneaux, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Senior Community Service Employment Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This revision will modify Subsection 1231 of the GOEA Policy Manual. It redefines the terms for participation in the Older Americans Act Senior Community Service Employment Program (Title V), redefines enrollment priorities and benefits, and establishes the goal for unsubsidized job placement at 20 percent of the number of program participants (enrollees). The proposed rule changes will not result in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This change will not affect 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 additional cost to GOEA's Title V subcontractors. Title V enrollees will benefit from the subcontractors' increased efforts to obtain meaningful employment opportunities for their clients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Due to the increase in the job placement goal, GOEA's Older Americans Act Title V subcontractors must increase their efforts to place clients into unsubsidized employment. Therefore, job development will become a crucial part of employment counselors' activities. Employment counselors will have to actively recruit employers who are willing to hire their clients.

P.F. "Pete" Arceneaux
Executive Director
9806#061

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals
Board of Veterinary Medicine

Investigative Subpoenas, Livestock Management Practices, and Prescriptions
(LAC 46:LXXXV.106, 700, 705, and 707)

The Louisiana Board of Veterinary Medicine proposes to

amend LAC 46:LXXXV.106, 700, 705, and 707 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq.

The proposed amendment to §106 provides authority for the board or the chair of the complaint review committee acting on behalf of the board to issue investigative subpoenas and investigative subpoenas duces tecum for the purpose of discovering violations of the statutes and rules governing the practice of veterinary medicine. The board currently has authority under R.S. 49:956(5) to sign and issue subpoenas in conjunction with an adjudication proceeding. The proposed rule would allow the board to issue subpoenas related to matters under investigation.

The proposed amendments to §700 and §707 are related to accepted livestock management practices. Under R.S. 37:1514(3), the board may prescribe acts that are accepted livestock management practices and which do not require a license to practice veterinary medicine before being performed. The amendments to §700 provide definitions for alternative livestock, cosmetic surgery, and livestock. The amendments to §707 are mostly technical in nature, changing "animals" to "livestock." However, §707(5) would make clear that surgical cosmetic dehorning is defined as the practice of veterinary medicine.

The proposed amendment to §705(G) expands and clarifies an earlier amendment to this section. The proposed changes make clear that a client is not obligated to purchase a prescription medication from the prescribing veterinarian. It also makes clear that a veterinarian is not required to write a prescription unless a veterinarian-client-patient relationship exists and a veterinarian has determined that a prescription medication will be used in a patient's treatment or preventive health plan. Also, a veterinarian is not required to write a prescription for any medication that, in the veterinarian's medical judgment, is not appropriate for the patient's medical care, and a veterinarian may refuse to write a prescription if it is not directly requested by a client with whom a veterinarian-patient-client relationship exists. A written prescription can be construed to include any manner of authorization for filling a prescription, including verbal or electronic communication.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians
Chapter 1. Operations of the Board of Veterinary Medicine
§106. Complaint Resolution and Disciplinary Procedures

A. ...

B. Appointing a Complaint Review Committee.

1. - 3. ...

4. The board or the chair of the complaint review committee acting on behalf of the board shall have the authority to issue investigative subpoenas and investigative subpoenas duces tecum for the purpose of discovering violations of the statutes and rules governing the practice of veterinary medicine.

C. - D.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:345 (March 1993), amended LR 23:967 (August 1997), LR 24:940 (May 1998), LR 24:

Chapter 7. Veterinary Practice
§700. Definitions

Alternative Livestock—animals that have not been domesticated, but are bred or kept on a farm for use or commercial profit.

* * *

Cosmetic Surgery—that branch of veterinary medicine that deals with surgical procedures designed to improve the animal's appearance.

* * *

Livestock—domestic animals to include only cattle, hogs, sheep, and goats, bred or kept on a farm for use or commercial profit.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:1381 (December 1994), LR 24:941 (May 1998), LR 24:

§705. Prescribing and Dispensing Drugs

A. - F. ...

G. ...

1. A client is not obligated to purchase a prescription medication from the prescribing veterinarian. Therefore, when a veterinarian-client-patient relationship exists and a veterinarian has determined that a prescription medication will be used in a patient's treatment or preventive health plan, it shall be considered a violation of the rules of professional conduct, within the meaning of R.S. 37:1526(14), for a veterinarian to refuse to provide a written prescription to the client so long as the following conditions exist:

a. the veterinarian has determined that the patient's life is not endangered without the immediate administration of the prescription medication, and

b. in the veterinarian's medical opinion, the prescribed substance is medically safe for in-home administration by the client.

2. A veterinarian shall not be required under this section to write a prescription for controlled substances or a prescription for any medication that, in the veterinarian's medical judgment, is not appropriate for the patient's medical care.

3. A veterinarian may refuse to write a prescription under this section if it is not directly requested by a client with whom a veterinarian-patient-client relationship exists.

4. A written prescription can be construed to include any manner of authorization for filling a prescription, including verbal or electronic communication.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 16:226 (March 1990), LR 19:1329 (October

1993), LR 20:1381 (December 1994), LR 23:1686 (December 1997), LR 24:

§707. Accepted Livestock Management Practices

The following are hereby declared to be accepted livestock management practices as provided by R.S. 37:1514(3):

1. The practice of artificial insemination (A.I.) and the non-surgical impregnation (with frozen embryo) of livestock to include that performed for a customer service fee or that performed on individually-owned livestock;

2. The procedure involving the collection, processing, and freezing of semen from privately owned livestock carried out by NAAB-CSS approved artificial insemination business organizations;

3. ...

4. Performing the operation of male castration, docking, or earmarking of livestock raised for human consumption;

5. Performing the normal procedure of dehorning livestock, with the exception of surgical cosmetic dehorning, which is defined as the practice of veterinary medicine;

6. ...

7. Treating livestock for disease prevention with a non-prescription medicine or vaccine;

8. Branding and/or tattooing for identification of livestock;

9. - 10. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 9:213 (April 1983), amended LR 23:969 (August 1997), LR 24:

Interested parties may submit written comments to Charles B. Mann, executive director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on July 28, 1998. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedures Act, the hearing will be held on July 28, 1998, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third St., Suite 104, Baton Rouge, LA.

Charles B. Mann
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Investigative Subpoenas, Livestock Management Practices, and Prescriptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendments (estimated $350). The veterinary profession will be informed of this rule change via the board's regular newsletter, which is already a budgeted cost of the board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect or revenue collections of state or local governmental units. There will be no revenue impact as no increase in fees will result from these amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on employment and competition.

Charles B. Mann
Executive Director
9806#046

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Public Water System Capacity Development (LAC 48:V.7707-7719)

Under the authority of the Act to amend and reenact R.S. 40:4(A)(8) and 5.8 relative to the State Sanitary Code, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health gives notice that rulemaking procedures have been initiated to adopt the Drinking Water Capacity Development regulations, LAC 48:V.Chapter 77, Subchapter B.

The proposed rule establishes requirements of Public Water System Capacity Development as authorized under the Safe Drinking Water Amendments of 1996 and Act 814 of the 1997 Regular Session of the Louisiana Legislature, R.S. 40:4(A)(8) and 5.8. The Public Water System Capacity Development strategy will assist public water systems in acquiring and maintaining technical, managerial, and financial capacity to comply with state drinking water regulations which are no less stringent than the national primary drinking water regulations.

The proposed rule provides information as to criteria used in the Capacity Development strategy to assess and ensure that public water systems acquire and maintain technical, managerial, and financial capacity. The proposed rule includes a requirement that all new community water systems and new non-transient non-community water systems demonstrate technical, managerial, and financial capacity. The basis and rationale for this proposed rule are to develop and implement the Capacity Development strategy as authorized by the Safe Drinking Water Amendments of 1996 and Act 814 of the 1997 Regular Session of the Louisiana Legislature, R.S. 40:4(A)(8) and 5.8.

Title 48
PUBLIC HEALTH—GENERAL
Part V. Preventive Health Services
Subpart 25. Drinking Water
Chapter 77. Drinking Water Program
Subchapter B. Public Water System Capacity Development

§7707. Introduction

A. The Department of Health and Hospitals, Office of Public Health (OPH) is the state agency within Louisiana granted primary enforcement responsibility from the United States Environmental Protection Agency (USEPA) to ensure that Public Water Systems (PWSs) within the state are in compliance with state drinking water regulations which are as stringent or more stringent than federal drinking water regulations adopted in accordance with the Safe Drinking Water Act (SDWA) (42 U.S.C. 300f et seq.). The SDWA Amendments of 1996 authorized the State to develop and implement a Capacity Development strategy for new public water systems, public water systems applying for Drinking Water State Revolving Fund (SRF) monies, and existing public water systems to assess and ensure that such systems acquire and maintain technical, managerial, and financial capacity to facilitate compliance with and further the health protection objectives of the SDWA.

B. In accordance with the Louisiana Constitution and authorizing legislation, regulations governing Public Water System Capacity Development are promulgated by OPH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:

§7709. Authority

Act 814 of the 1997 Regular Session of the Louisiana Legislature amended and reenacted R.S. 40:4(A)(8) and 5.8, relative to the State Sanitary Code; to require the state health officer to provide for a strategy for public water systems to comply with federal and state drinking water regulations; to define types of public water systems; and to provide for related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:

§7711. Definitions

The following terms used in these regulations shall have the following meanings:

Business Plan—includes, but not limited to, an explanation of the assets of the system, the service area's basic needs, how these needs are to be addressed, and how the system is going to operate and sustain itself over time.

Committee of Certification—the committee created by LSA-R.S. 40:1141 through 1151, responsible for certification of public water system operators.

Community Water System—a public water system that serves year-round residents within a residential setting.

Department—the Office of Public Health (OPH) of the LA Department of Health and Hospitals (DHH).

Financial Capacity—relates to, but not limited to, revenue sufficiency, credit worthiness, and fiscal management and controls.

Managerial Capacity—relates to, but not limited to, ownership accountability, staffing and organization, and effective external linkages.

Non-Transient Non-Community Water System—a public water system that is not a community system and regularly serves at least 25 of the same persons (non-residents) over six months per year.

Operator—the individual(s), as determined by the State, who is in attendance, onsite at a public water system and whose performance, judgment and direction affects either the safety, sanitary quality or quantity of water treated or delivered.

Public Water System—a system intended to provide potable water to the public, which system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days per year. The term includes:

a. any collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system; and

b. any collection or pre-treatment storage facilities not under such control which are used primarily in connection with the system.

State—the state of Louisiana or any agency or instrumentality thereof.

State Health Officer—the assistant secretary of the Department of Health and Hospitals and/or his authorized representative.

Technical Capacity—relates to, but not limited to, source water adequacy, infrastructure adequacy, and technical knowledge and implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:

§7713. New Systems

A. Business Plan. All public water systems wanting to commence operation after January 1, 1999 shall be required to submit a Business Plan to the Department to aid in the Department's determination of technical, managerial and financial capacity. Required information for the Business Plan shall be provided by the Department.

B. Operator Requirements. All prospective public water systems meeting the population requirements to require a certified operator must have an operator who holds a regular certificate in the appropriate classes(es) of certification for the population served by the system. The system must have an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Any prospective public water system not meeting the population requirements at the time of request to commence operation must have an operator who has had at least sixteen (16) hours of operator training which meets the guidelines of the State Committee of Certification, and must have at least sixteen (16) hours of continuing training yearly. The system must provide such an operator on duty at all times, or the operator must be

vailable to respond and be on-site within an hour of notification. Such requirement for systems not meeting the population requirements for a certified operator shall remain in effect until such time as the United States Environmental Protection Agency (USEPA) requires that all public water systems have certified operators or the State requires same, whichever occurs first. At such time, the then current requirements would be applied.

C. Management Training. As a part of meeting the managerial capacity requirements, all new public water systems wanting to commence operation after January 1, 1999, must make arrangements to attend the next scheduled training session provided by the State for Board Members/Council Members/Mayors, Owners, etc. Such arrangements shall be made upon making application to the Department for approval to commence operation.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

E. Approval for Operation. After January 1, 1999, written approval to commence operation for new public water systems will be given by the Department only after the Department is satisfied that technical, managerial, and financial capacity requirements are being met, in addition to all other applicable regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:

§7715. Systems Applying For Drinking Water Revolving Loan Fund (DWRLF) Monies

A. Business Plan. Beginning with Federal Fiscal Year 98 (FFY98) Capitalization Grant Monies (DWRLF Monies), all public water systems applying for such monies must submit a Business Plan with the final application packet to the Department to aid in the Department's determination of technical, managerial, and financial capacity. Required information for the Business Plan shall be provided by the Department.

B. Operator Requirements. All prospective public water systems meeting the population requirements to require a certified operator must have an operator who holds a regular certificate in the appropriate classes(es) of certification for the population served by the system. The system must have an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Any prospective public water system not meeting the population requirements at the time of request to commence operation must have an operator who has had at least sixteen (16) hours of operator training which meets the guidelines of the State Committee of Certification, and must have at least sixteen (16) hours of continuing training yearly. The system must provide such an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Such requirement for systems not meeting the population requirements for a certified operator shall remain in effect until such time as the United States Environmental Protection Agency (USEPA) requires that all public water systems have certified operators or the State requires same, whichever occurs first. At such time, the then current requirements would be applied.

C. Financial Capacity. In addition to any financial information required in the Business Plan, the public water system must meet all financial requirements of the Department of Environmental Quality (DEQ), the financial administrator for the Drinking Water Revolving Loan Fund (DWRLF).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:

§7717. Existing Community and Non-Transient Non-Community Systems

A. Business Plan. All existing community and non-transient non-community water systems shall be required to submit a Business Plan to the Department to aid in the Department's determination of technical, managerial, and financial capacity. Required information for the Business Plan will be provided by the Department. Such plan must be submitted to the Department within six (6) months after the initial visit by the designated party of the State who is providing assistance to the public water system in preparation of the business plan.

B. Operator Requirements. All prospective public water systems meeting the population requirements to require a certified operator must have an operator who holds a regular certificate in the appropriate classes(es) of certification for the population served by the system. The system must have an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Any prospective public water system not meeting the population requirements at the time of request to commence operation must have an operator who has had at least sixteen (16) hours of operator training which meets the guidelines of the State Committee of Certification, and must have at least sixteen (16) hours of continuing training yearly. The system must provide such an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Such requirement for systems not meeting the population requirements for a certified operator shall remain in effect until such time as the United States Environmental Protection Agency (USEPA) requires that all public water systems have certified operators or the State requires same, whichever occurs first. At such time, the then current requirements would be applied.

C. Management Training. As a part of meeting the managerial capacity requirements, all appropriate staff of existing community and non-transient non-community water systems shall attend a training session provided by the State for Board Members, Council Members/Mayors/Owners, etc. Training sessions shall be provided periodically and appropriate parties as noted above must attend one of the scheduled sessions within six (6) months after the system has been notified that is it being evaluated for technical, managerial, and financial capacity.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:

§7719. Miscellaneous

A. Evaluations. Evaluations to determine technical, managerial, and financial capacity will be conducted in accordance with a developed strategy prepared by the Department and for which approval has been given by USEPA.

B. Coordination. Implementation of the strategy will be coordinated between the Department staff and contracting parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:

A public hearing will be held on July 28, 1998 at the DEQ Maynard Ketcham Bldg., Rm. 326, 7290 Bluebonnet Rd., Baton Rouge, Louisiana, starting at 1:30 p.m. Interested parties are invited to attend and submit oral comments on the proposed regulations. Should individuals with a disability need an accommodation in order to participate, contact Sarah Bradford at the address given below or at (504) 568-5100.

All interested persons are invited to submit written comments on the proposed regulations. Such comments must be received no later than August 5, 1998 at COB, 4:30 p.m., and should be sent to Sarah Bradford, Office of Public Health, Environmental Health Services, DWRLF, P.O. Box 60630, Rm. 403, New Orleans, LA 70160 or faxed to (504) 568-7703.

This proposed rule is available for inspection at the following Office of Public Health Offices: 325 Loyola Avenue, Rm. 403, New Orleans, LA 70112; 1772 Wooddale Blvd., Baton Rouge, LA 70806; 206 E. Third St., Thibodaux, LA 70301; 825 Kaliste Saloom Rd., Ste 100, Lafayette, LA 70508; 4240 Sen. J. Bennett Johnston Ave., Lake Charles, LA 70615; 1500 Lee St., Alexandria, LA 71301; 1525 Fairfield Ave., Rm. 566, Shreveport, LA 71101; 2913 Betin St., Monroe, LA 71201; and 520 Old Spanish Trail, Slidell, LA 70458.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Public Water System Capacity Development

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation will include a cost of approximately $480.00 as associated with publication in the *Louisiana Register*. There will be no other implementation costs to the State or local units associated with activities resulting from this proposed rule which will be totally funded by the Federal Drinking Water Revolving Loan Fund Capitalization Grant.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no significant effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This program is designed to ensure that new public water systems demonstrate technical, managerial, and financial capacity before commencing operation, to aid in the system's capacity to maintain compliance with drinking water rules, regulations and standards; to ensure that public water systems applying for drinking water revolving loan fund monies demonstrate technical, managerial, and financial capacity before receiving such monies in order for such systems to appropriately utilize, maintain, and manage the results of such monies; and to assist existing public water systems in obtaining and maintaining technical, managerial, and financial capacity to aid in achieving and maintaining compliance with drinking water rules, regulations, and standards, in accordance with the 1996 SDWA amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This program will generate various types of work at the local level such as restructuring of the system's management processes, technical capabilities, etc., which may provide more opportunities for employment in the private sector at that level.

David W. Hood
Secretary
9806#067

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals
Office of the Secretary

Maternal and Child Health Block Grant Application

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child Health (MCH) Block Grant Federal Funding for FY 1998-99 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, Number 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.

Written comments will be accepted through August 30, 1998. Comments may be addressed to Jimmy Guidry, M.D., Assistant Secretary, Office of Public Health, 1201 Capitol Access Road, Baton Rouge, La.

The application is available for review at any regional OPH facility.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Maternal and Child Health
Block Grant Application

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This block was implemented in FY 82. Neither an increase nor a decrease in implementation costs is expected, as DHH will continue to administer these programs in accordance with existing federal and state laws and regulations. No workload change is anticipated, as the same amounts and kinds of services are expected to be delivered. Publication Cost should be included ($45.00).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections is anticipated. Naturally, if the federal allotment to Louisiana for this block decreases, the State will be required to subsequently decrease the allotment to all programs covered under the block, but this is a factor beyond our control. The amount of allocation for Louisiana for FY 98-99 is expected to be $14,401,228 which is almost the same amount as FY 97-98.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No direct effect is anticipated on patients, groups, units of local government or state agencies other than DHH.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect is anticipated on competition and employment, as the same kinds and amounts of services are to be offered. Should the amount of federal funds eventually appropriated be at such a decreased level as to warrant reductions in staff, unemployment will result.

Jimmy Guidry, M.D.
Assistant Secretary
9806#083

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Ambulatory Surgical Centers (LAC 48:I.4523)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the licensing regulations for ambulatory surgical centers as established by R.S. 40:2131-2141. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Human Resources adopted regulations governing the licensing of Ambulatory Surgical Centers, which were published in the *Louisiana Register*, Volume 13, Number 4 and in the *Louisiana Administrative Code* Volume 8, Title 48, Book 1, 1987. The current regulations require that all ambulatory surgical centers be provided with an adequate supply of safe and palatable water nder pressure, which must be from an approved public or rivate water supply properly constructed and maintained. In addition, bacterial samples collected semi-annually must show absence of bacteriological contamination.

Since the semi-annual bacterial sample is now considered to be an antiquated practice, the Department has decided to repeal this requirement. Therefore, the Department of Health and Hospitals proposes to amend Chapter 45, Section 4523 of the Ambulatory Surgical Center licensing and certification requirements, entitled Water Supply, to repeal the requirement for semi-annual bacterial sample collection. This policy change will not result in any deviation in the current licensing process and/or requirements.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 45. Ambulatory Surgical Center
§4523. Water Supply

* * *

All centers shall be provided with an adequate supply of safe and palatable water under pressure. Water must be obtained from a water supply approved by the Office of Public Health.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2143.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 24:

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

A public hearing on this proposed rule is scheduled for Tuesday, July 28, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ambulatory Surgical Centers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will not result in state costs. However, $80 will be incurred in SFY 1998 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on federal revenue collections. However,

he federal share of promulgating this proposed rule as well as the final rule is $80.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no cost or economic benefit to persons or non-governmental groups. However, there are costs of $160 for promulgating this proposed rule as well as the final rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9806#062

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing, proposes to revise and expand its existing regulations regarding prepayment and postpayment review of claims made to or submitted to the Department and/or its Fiscal Intermediary by provider(s) of goods, services, and supplies who seek or may seek payment or reimbursement from the Louisiana Medicaid program for the providing of or claiming to provide goods, services, or supplies and administrative sanctions of providers and others who violate the laws, regulations, rules, policies, and/or procedures governing the Louisiana Medicaid program. These regulations are being revised and adopted in accordance with R.S. 49:950 et seq. and the Medical Assistance Program Integrity Law.

Title 50
PUBLIC HEALTH - MEDICAL ASSISTANCE
Part II. Medical Assistance Program
Subpart 1. General /Program Integrity
Chapter 41. Surveillance and Utilization Review Systems (SURS)
Subchapter A. General Provisions
§4101. Introduction and Preamble

A. The Medical Assistance Program is a four party arrangement: the taxpayer, the government, the beneficiaries and the providers. The Secretary of the Department of Health and Hospitals through this regulation recognizes the obligation to the taxpayers to assure the fiscal and programmatic integrity of the Medical Assistance Program. The Secretary has zero tolerance for fraudulent, willful, abusive or other ill practices perpetrated upon the Medical Assistance Program by providers, providers-in-fact and others, including beneficiaries. Such practices will be vigorously pursued to the fullest extent allowed under the applicable laws and regulations. The Secretary, however, recognizes the responsibility to assure that actions brought in pursuit of providers, providers in fact and others, including beneficiaries, under this regulation are not frivolous, vexatious or brought primarily for the purpose of harassment. The Secretary also recognizes that when determining whether a fraudulent pattern of incorrect submissions exists under this regulation, the department has an obligation to demonstrate that the pattern of incorrect submissions is material as defined under this regulation prior to imposing a fine or other monetary sanctions which are greater than the amount of the identified overpayment resulting from the pattern of incorrect submissions. Providers, providers-in-fact and others, including beneficiaries, recognize that they have an obligation to obey and follow all applicable laws, regulations, policies, criteria and procedures. In the case of an action brought for a pattern of incorrect submissions, providers and providers-in-fact recognize that if they frivolously or unreasonably deny the existence or amount of an overpayment resulting from a pattern of incorrect submissions the department may impose judicial interest on any outstanding recovery or recoupment, and/or reasonable cost and expenses incurred as the direct result of the investigation and/or review including, but not limited to, the time and expenses incurred by departmental employees or agents and the fiscal intermediary's employees or agents.

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

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

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

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

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

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

F. This regulation shall consist of LAC 50:II.Chapter 41.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4103. Definitions

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

Affiliate—any person having an overt or covert relationship or association with a provider such that the provider is directly or indirectly influenced or controlled by the affiliate or has the power to do so. Any person who shares in the proceeds or has the right to share in the proceeds of a provider is presumed to be an affiliate of that provider. Any person with a direct or indirect ownership interest in a provider is presumed to be an affiliate of that provider.

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

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

Billing Agent—any person, not an employee of the provider, who performs any or all of the provider's billing functions. Billing agents are presumed to be an agent of the provider.

Billing or *Bill*—submitting, or attempting to submit, a claim for goods, supplies, or services for payment or reimbursement from the Medical Assistance Program.

Claim—any request or demand, including any and all documents or information required by federal or state law or by rule or required as a condition of enrollment as a health care provider, made against medical assistance program funds for payment. A claim must be submitted on the proper form(s), supportable by the required documentation(s), relate to a program for which the provider was enrolled, and must be provided to a recipient or on behalf of a recipient who was eligible to receive the good, service, or supply. A claim may be based on costs or projected costs and includes any entry or omission in a cost report or similar document, book of account, or any other document which supports, or attempts to support, the claim. In the case of a claim based on a cost report, any entry or omission in a cost report, book of account or other documents used or intended to be used to support a cost report shall constitute a claim. Each claim may be treated as a separate claim, or several claims may be combined to form one claim

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

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

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

Department—the Louisiana Department of Health and Hospitals.

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

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

Director of the Bureau of Health Services Financing—the Director of BHSF and/or authorized designee.

Exclusion from Participation—a sanction that terminates a provider, provider-in-fact or other person from participation in the Louisiana Medicaid program, or one or more of its programs and cancels the provider's provider agreement.

a. A provider who is excluded may, at the end of the period of exclusion, reapply for enrollment.

b. A provider, provider-in-fact or other person who is excluded may not be a provider or provider-in-fact, agent of a provider, or affiliate of a provider or have a direct or indirect ownership in any provider during their period of exclusion.

Federal Regulations—the provisions contained in the *Code of Federal Regulations* (CFR) and/or the *Federal Register* (FR).

Finalized Sanction or *Final Administrative Adjudication* or *Order*—a final order imposed pursuant to an administrative adjudication which has been signed by the Secretary or the Secretary's authorized designee.

Fiscal Agent or *Fiscal Intermediary*—an organization or legal entity which the department contracts with to provide for the processing, review of and/or payment of provider bills and claims for reimbursement on behalf of the Louisiana Medicaid program.

Goods, Services or *Supplies*—any goods, items, devices, supplies, or services for which a claim is made, or is attempted to be made, in whole or in part from funds of the Medical Assistance Program.

Health Care Provider—any person furnishing or claiming to furnish a good, service, or supply under the medical assistance programs as defined in R.S. 46:437.3a and any other person defined as a health care provider by federal or state law or by rule. *Provider* as used in this rule shall mean health care

rovider. A *provider-in-fact* as defined in this rule shall mean a health care provider.

Identified Overpayment—the amount of overpayment made to or requested by a provider which has been identified in the finalized sanction, final administrative adjudication or order.

Indirect Ownership—an ownership interest in an entity that has an ownership interest in a provider. This term includes an ownership interest in any entity that has an indirect ownership interest in a provider.

Informal Hearing—an informal conference between the provider, provider-in-fact or other persons and the Director of Program Integrity and/or the SURS manager related to a notice of corrective action, notice of withholding of payments and/or notice of sanction.

Investigator or *Analyst*—any person authorized to conduct investigations on behalf of the department, BHSF, Program Integrity Division, SURS and/or the fiscal intermediary, either through employment or contract for the purposes of payment and/or programmatic review.

Investigatory Process—the examination of the provider, provider-in-fact, agent-of-the-provider, or affiliates, and any other person or entity, and any and all records held by or pertaining to them pursuant to a written request from BHSF. No adjudications are made during this process.

Knew or *Should Have Known*—the person knew or should have known that the activity engaged in or not engaged in was prohibited conduct under this regulation or federal or state laws and regulations. The standard to be used in determining *knew* or *should have known* is that of a reasonable person engaged in the activity or practice related to the Medical Assistance Program at issue.

Knowing or *Knowingly*—the person has actual knowledge of the information, or acts in deliberate ignorance or reckless disregard of the truth or falsity of the information. The standard to be used in determining knowledge is that of a reasonable person engaged in the activity or practice related to the Medical Assistance Program at issue.

Law—the constitutions, statutory and/or code provisions of the federal government and the government of the state of Louisiana.

Louisiana Administrative Code (LAC)—the *Louisiana Administrative Code* and/or the *Louisiana Register*.

Managing Employee—any person who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of a provider. A managing employee includes, but is not limited to, a CEO, president, general manager, business manager, administrator, or Director of the provider. A managing employee is presumed to be a provider-in-fact.

Medical Assistance Program or *Medicaid*—the Medical Assistance Program (Title XIX of the Social Security Act), commonly referred to as *Medicaid*, and other programs operated by and funded in the department which provide payment to health care providers.

Notice—actual or constructive notice.

Notice of an Action—a written notification of an action taken or to be taken by the department, BHSF and/or SURS. A notice must be signed by or on behalf of the Secretary, Director f BHSF, and/or Director of Program Integrity.

Ownership Interest—the possession, directly or indirectly, of equity in the capital or the stock, or right to share in the profits of a health care provider.

Payment or *Reimbursement*—the payment or reimbursement to a provider from medical assistance programs' funds pursuant to a claim, or the attempt to seek payment for a claim.

Person—any natural person, company, corporation, partnership, firm, association, group, or other legal entity or as otherwise provided for by law.

Policies, *Criteria* or *Procedure*—those things established or provided for through departmental manuals, provider updates, remittance advice or bulletins issued by the Medical Assistance Program or on behalf of the Medical Assistance Program.

Program—any program authorized under the Medical Assistance Program.

Program Integrity Division (PID)—the Program Integrity Unit under BHSF within the department, its predecessor and successor.

Provider Agreement—the document(s) signed by or on behalf of the provider and those things established or provided for in R.S. 46:437.11 - 437.14 or by rule, which enrolls the provider in the Medical Assistance Program and/or one or more of its programs and grants to the provider a provider number and the privilege to participate in Medicaid of Louisiana and/or one or more of its programs.

Provider Enrollment—the process through which a person becomes enrolled in one or more of the Medical Assistance Program or one of its programs for the purpose of providing goods, services, or supplies to one or more Medicaid recipients and/or submissions of claims.

Provider-in-Fact—person who directly or indirectly participates in management decisions, has an ownership interest in the health care provider, or other persons defined as a provider-in-fact by federal or state law or by rule. A person is presumed to be a provider-in-fact if the person is:

a. a partner;

b. a board of Directors member;

c. an office holder; and/or

d. a person who performs a significant management or administrative function for the provider, including any person or entity who has a contract with the provider to perform one or more significant management or administrative functions on behalf of the provider;

e. a person who signs the provider enrollment paper work on behalf of the provider;

f. a managing employee;

g. an agent of the provider, or a billing agent may also be a provider-in-fact for the purpose of determining a violation and the imposing of a sanction under this regulation.

Provider Number—a provider billing or claim reimbursement number issued by the department through BHSF under the Medical Assistance Program.

Random Statistical Sample—a statistical formula and sampling technique used to produce a statistical extrapolation of the amount of overpayment made to a provider and/or volume of the violations.

Recoupment—recovery through the reduction, in whole or in part, of payments and/or reimbursements to a provider.

Recovery—the recovery of overpayments, damages, fines, penalties, costs, expenses, restitution, attorney's fees, or interest or settlement amounts.

Referring Provider—any provider, provider-in-fact or anyone operating on behalf of the provider who refers a recipient to another person for the purpose of providing goods, services, or supplies.

Rule or *Regulation*—any rule or regulation promulgated by the department in accordance with the Administrative Procedure Act and any federal rule or regulation promulgated by the federal government in accordance with federal law.

Sanction—any action by the department, BHSF, and/or SURS which is specifically labeled as a sanction.

Secretary—the Secretary of the department or authorized designee.

SURS Manager—the individual designated by the Secretary as the manager of SURS and/or authorized designee.

Surveillance and Utilization Review Section (SURS)—the section within BHSF assigned to identify, conduct reviews, and sanction providers resulting from payments to and claims from providers, and any other functions or duties assigned by the Secretary.

Suspension from Participation—occurs between the issuing of the notice of the results of the informal hearing and the issuing of the final administrative adjudication or order.

Terms of the Provider Agreement—the terms contained in the provider agreement and/or related documents and established or provided for in R.S. 46:437.11 - 437.14 or established by law or rule.

Undersecretary—the Undersecretary of the department or authorized designee.

Violations—any practice or activity by a provider, provider-in-fact, agent-of-the-provider, affiliate, and/or other persons which is prohibited by law or regulation.

Withholding of Payments—to reduce or adjust the amount, in whole or in part, to be paid to a health care provider for pending or future claims during the time of a criminal, civil, or departmental investigation or proceeding or claims review of the health care provider.

Working Days—Monday through Friday, except for legal holidays and other situations when the department is closed.

B. General Terms. Definitions contained in applicable federal laws and regulations shall also apply to this and all department regulations. In the case of a conflict between federal definitions and departmental definitions, the department's definition shall apply unless the federal definition, as a matter of law, supersedes a departmental definition. Definitions contained in applicable state laws shall also apply to this and all departmental definitions. In the case of a conflict between a state statutory definition and a departmental definition, the departmental definition shall apply unless the state statutory definition, as a matter of state law, supersedes the departmental definition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4105. Material

A. The Secretary of the Department of Health and Hospitals establishes the following definitions of *Material*:

1. For the purpose of the LSA-R.S. 48:438.3 as required under LSA-R.S. 48:438.8D, in determining whether a pattern of incorrect submissions exists in regards to an alleged false or fraudulent claim the incorrect submissions must be five (5) percent or more of the total claims which are the subject of the action filed.

2. For the purpose this regulation, in determining whether a pattern of incorrect submissions exists in regards to an alleged fraudulent or willful violation the incorrect submissions must be five (5) percent or more of the total claims being subjected to claims review under the provisions of this regulation.

3. Statistically valid sampling techniques may be used by either party to prove or disprove whether the pattern was material.

B. This provision is enacted under the authority provided in LSA R.S. 46:438.8D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4107. Random Statistical Sampling

A. Statistical Sampling techniques may be used by any party to the proceedings.

B. A statistically valid sampling technique may be used to produce a statistical extrapolation of the amount of overpayment made to a provider and/or the volume or number of violations committed by a provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Subchapter B. Claims Review: Prepayment and/or Postpayment Review

§4109. Departmental and Provider Obligations

A. The department, through the Secretary, has an obligation, imposed by federal and state laws and regulations, to review bills and claims submitted by providers before payment is made and after. Payments made by the Louisiana Medicaid program are subject to review by the Department of Health and Hospitals, Bureau of Health Services Financing, Program Integrity Division and/or the fiscal intermediary at anytime to ensure the quality, quantity, and need for goods, services, or supplies provided to or for a recipient by a provider, and to protect the fiscal and programmatic integrity of the Louisiana Medicaid program and its programs. It is the function of the Program Integrity Division (PID) and the Surveillance and Utilization Review Section (SURS) to provide for and administer the utilization review process within the department. The Secretary also recognizes his responsibility to assure that claims review brought under this

regulation are not frivolous, vexatious or brought primarily for the purpose of harassment. The Secretary also recognizes that, when determining whether a fraudulent pattern of incorrect submissions exists under this regulation, the department has an obligation to demonstrate that the pattern of incorrect submissions are material as defined under this regulation prior to imposing a fine or other monetary sanctions which are greater than the amount of the identified or projected overpayment resulting form the pattern of incorrect submissions.

B. Providers have no right to receive payment for bills or claims submitted to BHSF or its fiscal intermediary. Providers only have a right to receive payment for valid claims. Payment of a bill or claim does not constitute acceptance by the department or its fiscal intermediary that the bill or claim is a valid claim. The provider is responsible for maintaining all records necessary to demonstrate that a bill or claim is in fact a valid claim. It is the provider's obligation to demonstrate:

1. that the bill or claim submitted was for goods, services, and/or supplies provided to a recipient who was entitled to receive the goods, services, and/or supplies;

2. that the goods, services, and/or supplies were medically necessary and/or otherwise properly authorized;

3. that the goods, services, and/or supplies were provided by and/or authorized by an individual with the necessary qualifications to make that determination; and

4. that the goods, services, and/or supplies were actually provided to the appropriate recipient in the appropriate quality and quantity by an individual qualified to provide the good, service or supply; or

5. in the case of a claim based on a cost report, that each entry is complete, accurate and supported by the necessary documentation.

C. The provider must maintain and make available for inspection all documents required to demonstrate that a bill or claim is a valid claim. Failure on the part of the provider to adequately document means that the goods, services, and/or supplies will not be paid for or reimbursed by the Louisiana Medicaid program. Inadequate or improper documentation equals no payment.

D. A person has no property interest in any payments or reimbursements from Medicaid which are determined to be an overpayment or are subject to payment review.

E. Providers, providers in fact and others, including beneficiaries, recognize that they have an obligation to obey and follow all applicable laws, regulations, policies, criteria and procedures. In the case of an action brought for a pattern of incorrect submissions, providers and providers in fact recognize that if they frivolously or unreasonably deny the existence or amount of an overpayment resulting from a pattern of incorrect submissions the department may impose judicial interest on any outstanding recovery or recoupment, and/or reasonable cost and expenses incurred as the direct result of the investigation and/or review including, but not limited to, the time and expenses incurred by departmental employees or agents and the fiscal intermediary's employees or agents.

F. In determining the amount to be paid or reimbursed to provider any and all overpayments, recoupment or recovery must be taken into consideration prior to determining the actual amount owed to the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4111. Claims Review

A. BHSF establishes the following procedures for review of bills and claims submitted to it or its fiscal intermediary.

1. Prepayment Review.

a. Bills or claims submitted by a provider may be reviewed for fifteen days from date the payment or reimbursement is ordinarily sent to a provider by BHSF and/or its fiscal intermediary prior to the issuing of or denial of payment or reimbursement, unless the Director of BHSF and/or the Director of Program Integrity determines that reliable information exists which would indicate that payment should not be made or the provider or provider-in-fact has been placed on claims review for cause. Cause exists when the requested payment or reimbursement exceeds by ten percent or more the provider's average payment or reimbursement during the thirty day period prior to prepayment review.

b. If, during the prepayment review process, it is determined that the provider may have been or may be overpaid, BHSF and/or its fiscal intermediary must conduct an investigation to determine the reasons for and estimates of the amount of the alleged overpayments.

i. If it is determined that evidence exists which would lead the Director of BHSF and/or the Director of Program Integrity to believe that the provider, provider-in-fact, agent of the provider, and/or affiliate of the provider has engaged in fraudulent, false, or fictitious billing practices or willful misrepresentation, current and future payments shall be withheld.

ii. If it is determined that evidence exists that overpayments may have occurred through reasons other than fraudulent, false or fictitious billing or willful misrepresentation, current and future payments may be withheld.

c. Prepayment review is not a sanction and cannot be appealed nor is it subject to an informal hearing. If prepayment review results in withholding of payments, the provider or provider-in-fact will be notified within five working days of the determination to withhold payments. In the case of an ongoing criminal or outside investigation, information related to the investigation shall not be disclosed to the provider, provider-in-fact or other person. Denials or refusals to pay individual bills are not withholdings of payments.

d. Whether prepayment review is conducted is at the sole and absolute discretion of the Secretary, Director of BHSF, and/or the Director of Program Integrity.

2. Postpayment Review

a. Providers have a right to receive payment only for those bills which are valid claims. A person has no property interest in any payments or reimbursements from Medicaid which are determined to be an overpayment or are subject to payment review. After payment to a provider, BHSF and/or its

iscal intermediary may review any or all payments made to a provider for the purpose of determining if the amounts paid were for valid claims.

b. If, during the postpayment review process, it is determined that the provider may have been overpaid, BHSF and/or its fiscal intermediary must conduct an investigation to determine the reasons for and estimated amounts of the alleged overpayments.

i. If it is determined that evidence exists that would lead the Director of BHSF and/or the Director of Program Integrity to believe that the provider, provider-in-fact, agent of the provider, and/or affiliate of the provider may have engaged in fraudulent, false, or fictitious billing practices or willful misrepresentation, current and future payments shall be withheld.

ii. If it is determined that evidence exists that overpayments may have occurred through reasons other than fraud or willful misrepresentation, current and future payments may be withheld.

c. Postpayment review is not a sanction and is not appealable nor subject to an informal hearing. If postpayment review results in withholding of payments, the provider and/or provider-in-fact will be notified within five working days of the determination to withhold payments. In the case of an ongoing criminal or outside investigation, information related to the investigation shall not be disclosed to the provider, provider-in-fact or other person. Denials or refusals to pay individual bills are not withholdings of payments.

d. Whether postpayment review is conducted is at the sole and absolute discretion of the Secretary, Director of BHSF, and/or Director of Program Integrity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4113. Claims Review Scope and Extent

A. Prepayment and postpayment review may be limited to specific items or procedures or include all billings or claims by a provider.

B. The length of time a provider is on postpayment review shall be at the sole and absolute discretion of the Secretary, Director of BHSF, and/or Director of Program Integrity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Subchapter C. Investigations

§4115. Formal or Informal Investigations

Prepayment or postpayment review may be conducted either through a formal or informal process. The informal investigatory process may be conducted in any manner. The formal investigatory process shall be conducted in compliance with procedures established in Subchapter C. The scope and manner in which an investigation is conducted shall be at the discretion of the Director of BHSF and/or the Director of Program Integrity and/or the SURS manager. The fact that an investigation is conducted in violation of the procedures established by this rule does not invalidate the results of that investigation. The Secretary has a responsibility to assure that the investigatory process is not used for the purpose of harassment of any person or entity or initiated in bad faith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4117. Informal Investigatory Process

An informal investigation may be initiated without cause and requires no justification. The provider and provider-in-fact of the provider have an affirmative duty to cooperate fully with the investigation. The provider and provider-in-fact, if they have the ability to do so, shall make all records requested as part of investigation available for review, taking and/or copying. The provider and provider-in-fact, if they have the ability to do so, shall make available all agents and affiliates of the provider for the purpose of being interviewed during the course of the informal investigation at the provider's ordinary place of business or any other mutually agreeable location. If an original record is taken, the provider or person from whom it is taken shall be provided with a copy of that record prior to its being taken from the provider or other persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4119. Formal Investigatory Process

A. The formal investigatory process must be initiated in writing by the Director of BHSF and/or Director of Program Integrity. The written notice of investigation shall be directed to a provider, specifically name an investigating officer and be given to the provider, provider-in-fact and/or their agent. The investigating officer shall provide written notice of investigation to the provider and/or a provider-in-fact of the provider at the time of the on-site investigation.

B. The written notice need not contain any reasons or justifications for the investigation, only that such an investigation has been authorized and the individual in charge of the investigation.

C. The investigating officer and the agents of the investigating officer shall have the authority to review, take and/or copy records of the provider including, but not limited to, any financial or other business records of the provider and/or any or all records related to the recipients, and take statements from the provider, provider-in-fact, agents of the provider and any affiliates of the provider, as well as any recipients who have received goods, services, or supplies from the provider or whom the provider has claimed to have provided goods, services, and/or supplies. If an original record is taken, the provider or person from whom it is taken shall be provided with a copy of that record prior to its being taken from the provider or other persons. Statements, at the discretion of the Investigating officer, may be taken under oath either orally or in writing and may be recorded.

D. The provider and provider-in-fact of the provider have an affirmative duty to cooperate fully with the investigating officer and agents of the investigating officer, including full

nd truthful disclosure of all information requested and questions asked. The provider and provider-in-fact, if they have the ability to do so, shall make all records requested by the investigating officer available for review, taking, and/or copying. The provider and provider-in-fact, if they have the ability to do so, shall make available all agents and affiliates of the provider for the purpose of being interviewed by the investigating officer or agent of the investigating officer at the provider's ordinary place of business or any other mutually agreeable location. If an original record is taken, the provider or person from whom it is taken shall be provided with a copy of that record prior to its being taken from the provider or other persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:442.1 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4121. Investigatory Discussion

A. During the investigatory process the provider, provider-in-fact, agent of the provider, and/or affiliate of the provider may be notified in writing of the time and place of an investigatory discussion. The notice will contain the names of the individuals who are requested to be present at the discussion and any documents that the provider, provider-in-fact, agent of the provider and/or affiliate of the provider must bring to the discussion.

B. The provider and provider-in-fact, if they have the ability to do so, shall be responsible for assuring the attendance of individuals who are currently employed by, contracted by, associated with, and/or affiliated with the provider.

C. This notice may contain a request to bring records to the investigatory discussion. If such a request for records is made, the provider and provider-in-fact are responsible for having those records produced at the investigatory discussion. The provider or provider-in-fact shall be given at least five working days to comply with the request.

D. At the investigatory discussion, the authorized investigating officer(s) can ask any of the individuals present at the discussion questions related to the provider's billing practices or other aspects directly or indirectly related to the providing of goods, supplies, and services to Medicaid recipients and/or nonrecipients, or any other aspect related to the provider's participation in the Louisiana Medicaid program. The answers, at the discretion of the investigating officer, may be recorded and/or taken under oath. Any provider, provider-in-fact, agent of the provider, affiliate of the provider, or recipient brought to an investigatory discussion has an affirmative duty to fully and truthfully answer any questions asked and provide any and all information requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4123. Written Investigatory Reports

The investigating officer or analyst, at the discretion of the Director of BHSF and/or Director of Program Integrity, may raft a written investigative report concerning the results of the informal or formal investigation. This report shall be presented to the SURS manager. The Director of BHSF and/or Director of Program Integrity, at his discretion, may release the report to outside law enforcement agencies, authorized federal representatives, the legislative auditor and/or any individuals within the department whom the Secretary has authorized to review such reports. No other entities or persons shall have a right to review the contents of an investigative report.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Subchapter D. Conduct

§4125. Introduction

Subchapter D pertains to the kinds of conduct which are violations, the scope of a violation, types of violations and elements of violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4127. Prohibited Conduct

Violations are kinds of conduct which are prohibited and constitute a violation under this regulation. No provider, provider-in-fact, agent of the provider, billing agent, affiliate of a provider or other person may engage in any conduct prohibited by this regulation. If they do, the provider and/or provider-in-fact, agent of the provider, billing agent, affiliate of the provider and/or other person may be subject to corrective action, withholding of payment, recoupment, recovery, suspension, exclusion, posting bond or other security, monetary penalties and/or any other sanction listed in this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4129. Violations

The following is a list of violations.

1. Failure to comply with any or all federal or state laws applicable to the Medical Assistance Program and/or a program of the Medical Assistance Program in which the provider, provider-in-fact, agent of the provider, billing agent, affiliate and/or other person is participating is a violation of this provision.

a. Neither the Secretary, Director of BHSF, or any other person can waive or alter a requirement or condition established by statute.

b. Requirements or conditions imposed by a statute can only be waived, modified or changed through legislation.

c. Providers and providers-in-fact are required and have an affirmative duty to fully inform all their agents and affiliates, who are preforming any function connected to the provider's activities related to the Medicaid program, of the applicable laws.

d. Providers, providers-in-fact, agents of providers, billing agents, and affiliates of providers are presumed to know the law. Ignorance of the applicable laws is not a defense to any administrative action.

2. Failure to comply with any or all federal or state regulations or rule applicable to the Medical Assistance Program and/or a program of the Medical Assistance Program in which the provider, provider-in-fact, agent of the provider, billing agent, and/or affiliate of the provider is participating is a violation of this provision.

a. Neither the Secretary, Director of BHSF nor any other person can waive or alter a requirement or condition established by regulation.

b. Requirements or conditions imposed by a regulation can only be waived, modified, or changed through formal promulgation of a new or amended regulation, unless authority to do so is specifically provided for in the regulation.

c. Providers and providers-in-fact are required and have an affirmative duty to fully inform all their agents and affiliates, who are preforming any function connected to the provider's activities related to the Medicaid program, of the applicable regulations.

d. Providers, providers-in-fact, agents of providers, and affiliates of the provider are presumed to know the regulations and rules applicable to participation in the Medical Assistance Program and/or one or more of its programs in which they are participating. Ignorance of the applicable regulations is not a defense to any administrative action.

3. Failure to comply with any or all policies, criteria and/or procedures of the Medical Assistance Program and/or the applicable program(s) of the Medical Assistance Program in which the provider, provider-in-fact, agent of the provider, billing agent and/or affiliate of the provider is participating is a violation of this provision.

a. Policies, criteria and procedures are contained in program manuals, training manuals, remittance advice, provider updates and/or bulletins issued by or on behalf of the Secretary or Director of BHSF.

b. Policies, criteria and procedures can be waived, amended, clarified, repealed or otherwise changed, either generally or in specific cases, only by the Secretary, Undersecretary, Deputy Secretary or the Director of BHSF.

c. Such waivers, amendments, clarifications, repeals, or other changes must be in writing and state that it is a waiver, amendment, clarification, or change in order to be effective.

d. Notice of the policies, criteria and procedures of the Medical Assistance Program and its programs are provided to providers upon enrollment and receipt of a provider number. It is the duty of the provider at the time of enrollment and/or re–enrollment to obtain the policies, criteria, and procedures which are in effect at the time of enrollment and/or re–enrollment.

e. Waivers, amendments, clarifications, repeals, or other changes to the policies, criteria, or procedures must be in writing and are generally contained in a new and/or reissued program manual, new manual pages, remittance advice, provider updates, and/or specifically designated bulletins from he Secretary, Undersecretary, Deputy Secretary and/or Director of BHFS.

f. Waivers, amendments, clarifications, repeals or other changes are mailed to the provider at the address given to BHSF and/or the fiscal intermediary by the provider for the express purpose of receiving such notifications.

i. It is the duty of the provider to provide the above address and make arrangements to receive these mailings through that address. This includes the duty to inform BHFS and/or the fiscal intermediary of any changes in the above address prior to actual change of address.

ii. Mailing of a manual, new manual pages, provider update, bulletins, and/or remittance advice to the provider's latest listed above address creates a presumption that the provider received it. The burden of proving lack of notice of policy, criteria, or procedure and/or waivers, amendments, clarifications, repeals, or other changes in same is on the party asserting it.

iii. Providers and providers-in-fact are presumed to know the applicable policies, criteria and procedures and any or all waivers, amendments, clarifications, repeals, or other changes to the applicable rules, policies, criteria and procedures.

iv. Ignorance of an applicable policy, criteria, or procedure and/or any and all waivers, amendments, clarifications, repeals, and/or other changes to applicable policies, criteria and procedures is not a defense to an administrative action brought against a provider and/or provider-in-fact. Lack of notice of a policy, criteria, or procedure or waiver, amendment, clarification, repeal, or other change of the same is a defense to a violation based on abusive, fraudulent, false, or fictitious billing practice or willful practices or the imposition of any sanction except issuing a warning, education and training, prior authorization, posting bond or other security, recovery of overpayment or recoupment of overpayment. Lack of notice of a policy, criteria, or procedure and/or waivers, amendments, clarifications, repeals, and/or other changes to applicable policies, criteria, and/or procedures is not a defense to a violation which is aberrant.

g. Providers and providers-in-fact are required and have an affirmative duty to fully inform all their agents and affiliates, who are preforming any function connected to the provider's activities related to the Medicaid program, of the applicable policies, criteria, and procedures and any waivers, amendments, clarifications, repeals, and/or other changes in applicable policies, criteria, and/or procedures.

4. Failure to comply with one or more of the terms or conditions contained in the provider's provider agreement and/or any and all forms signed by or on behalf of the provider setting forth the terms and conditions applicable to participation in the Medical Assistance Program and/or one or more of its programs is a violation of this provision.

a. The terms or conditions of a provider agreement or those contained in the signed forms, unless specifically provided for by law or regulation or rule, can only be waived, changed and/or amended through mutual written agreement between the provider and the Secretary, Undersecretary, Deputy Secretary and/or the Director of BHSF. Those

onditions or terms which are established by law or regulation or rule may not be waived, altered, amended, or otherwise changed except through legislation or rule making.

b. A waiver, change, or amendment to a term or condition of a provider agreement and any signed forms must be reduced to writing and be signed by the provider and the Secretary, Undersecretary, Deputy Secretary and/or the Director of BHSF in order to be effective.

c. Such mutual agreements cannot waive, change and/or amend the law, regulations, rules, policies, criteria and/or procedures.

d. The provider and provider-in-fact are presumed to know the terms and conditions in their provider agreement and any signed forms related thereto and any changes to their provider agreement or the signed forms related thereto.

e. The provider and provider-in-fact are required and have an affirmative duty to fully inform all their agents and/or affiliates, who are preforming any function connected to the provider's activities related to the Medicaid program, of the terms and conditions contained in the provider agreement and the signed forms related thereto and any change made to them. Ignorance of the terms and conditions in the provider agreement and/or signed forms or any changes to them is not a defense.

NOTE: The Department, BHSF and/or the fiscal intermediary may, from time to time, provide training sessions and consultation on the law, regulations, rules, policies, criteria, and procedures applicable to the Medical Assistance Program and its programs. These training sessions and consultations are intended to assist the provider, provider-in-fact, agents of providers, billing agents, and affiliates. Information presented during these training sessions and consultations do not necessarily constitute the official stands of the department and BHSF in regards to the law, regulations and rules, policies, and/or procedures unless reduced to writing in compliance with Subpart D.

5. Making a false, fictitious, untrue, misleading statement or concealment of information during the application process and/or not fully disclosing all information required and/or requested on the application forms for the Medicaid Assistance Program, provider number, enrollment paperwork, and/or any other forms required by the department, BHSF and/or its fiscal intermediary that is related to enrollment in the Medical Assistance Program or one of its programs or failing to disclose any other information which is required under this regulation, and/or other departmental regulations, rules, policies, criteria, or procedures is a violation of this provision. This includes the information required under R.S. 46:437.11 - 437.14. Failure to pay any fees or post security related to enrollment is also a violation of §4129.

a. The provider and provider-in-fact have an affirmative duty to inform BHSF in writing through provider enrollment of any and all changes in ownership, control, or management of a provider and fully and completely disclose any and all administrative sanctions, withholding of payments, criminal charges, and/or convictions, guilty pleas, or no contest pleas, civil judgments, civil fines, or penalties concerning the provider, provider-in-fact, agent of the provider, billing agent, and/or affiliates of the provider which are related to Medicare or Medicaid in this or any other state or territory of the United States.

b. Failure to do so within ten working days of when he provider or provider-in-fact knew or should have known of such a change or information is a violation of this provision.

c. If it is determined that a failure to disclose was willful or fraudulent, the provider's enrollment can be voided back to the date of the willful misrepresentation or concealment or fraudulent disclosure.

6. Not being properly licensed, certified, or otherwise qualified to provide for the particular goods, services, or supplies provided and/or billed for and/or such license, certificate, or other qualification required or necessary in order to provide a good, service, or supply has not been renewed or has been revoked, suspended or otherwise terminated is a violation of this provision. This includes, but is not limited to, professional licenses, business licenses, paraprofessional certificates, and licenses or other similar licenses or certificates required by federal, state, or local governmental agencies, as well as professional or paraprofessional organizations and/or governing bodies which are required by the Medical Assistance Program. Failure to pay required fees related to licensure or certification is also a violation of this provision.

7. Having engaged in conduct or performing an act in violation of official sanction which has been applied by a licensing authority, professional peer group, or peer review board or organization, or continuing such conduct following notification by the licensing or reviewing body that said conduct should cease is a violation of this provision.

8. Having been excluded or suspended from participation in Medicare is a violation of this provision. It is also a violation of this provision for a provider to employ, contract with, or otherwise affiliate with any person who has been excluded or suspended from Medicare during the period of exclusion or suspension.

a. The provider and provider-in-fact have an affirmative duty to:

i. inform BHSF in writing of any such exclusions or suspensions on the part of the provider, provider-in-fact and/or their agents and/or billing agents and/or their affiliates;

ii. not hire, associate with, contract with and/or affiliate with any person or entity who has been excluded or suspended from Medicare; and

iii. terminate any and all formal relationships with any person or entity who has been excluded or suspended from Medicare.

b. Failure to do so on the part of the provider and/or provider-in-fact within ten working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact or their agents, and/or affiliates is a violation of §4129.A.5.

c. If the terms of the exclusion or suspension have been completed, no violation of this provisions has occurred.

9. Having been excluded, suspended, and/or otherwise terminated from participation in Medicaid or other publicly funded health care or insurance programs of this state or any other state or territory of the United States is a violation of this provision. It is also a violation of §4129 for a provider to employ, contract with, or otherwise affiliate with any person who has been excluded, suspended and/or otherwise

erminated from participation in Medicaid or other publicly funded health care or health insurance programs of this state or another state or territory of the United States. It is also a violation of this provision for a provider to employ, contract with, or otherwise affiliate with any person who has been excluded from Medicaid or other publicly funded health care or health insurance programs of this state or any other state or territory of the United States during the period of exclusion or suspension.

a. The provider and provider-in-fact have an affirmative duty to:

i. inform BHSF of any such exclusions or suspensions on the part of the provider, provider-in-fact, and/or their agents and/or their affiliates;

ii. not hire, associate with, contract with, and/or affiliate with any person or entity who has been excluded or suspended from any Medicaid or other publicly funded health care or health insurance programs; and

iii. terminate any and all formal relationships with any person or entity who has been excluded or suspended from any Medicaid or other publicly funded health care or health insurance programs.

b. Failure to do so on the part of the provider and/or provider-in-fact within ten working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact, or their agents and/or affiliates is a violation of §4129.A.5.

c. If the terms of the exclusion or suspension have been completed, no violation of this provision has occurred.

10. Having been convicted of, pled guilty, or pled no contest to a crime, including attempts or conspiracy to commit a crime, in federal court, any state court, or court in any United States territory related to providing goods, services, or supplies and/or billing for goods, services, and/or supplies under Medicare, Medicaid, or any other program involving the expenditure of public funds is a violation of this provision. It is also a violation for a provider to employ, contract with, or otherwise affiliate with any person who has been convicted of, pled guilty, or pled no contest to a crime, including attempts to or conspiracy to commit a crime, in federal court, any state court, or court in any United States territory related to providing goods, services, or supplies and/or billing for goods, services, and/or supplies under Medicare, Medicaid, or any other program involving the expenditure of public funds.

a. The provider and provider-in-fact have an affirmative duty to:

i. inform BHSF in writing of any such convictions, guilt pled, or no contest plea to the above criminal conduct on the part of the provider, provider-in-fact, and/or their agents and/or affiliates;

ii. not hire, associate with, contract with, and/or affiliate with any person or entity who has been convicted, pled guilty to, or pled no contest to the above criminal conduct; and

iii. terminate any and all formal relationships with any person or entity who has been convicted, pled guilty to, or pled no contest to the above criminal conduct.

b. Failure to do so on the part of the provider and/or provider-in-fact within ten working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact, or their agents and/or affiliates is a violation of §4129.A.5.

c. If three years have passed since the completion of the sentence and no other criminal misconduct by that person has occurred during that three year period, this provision is not violated. Criminal conduct which has been pardoned does not violate this provision.

11. Having been convicted of, pled guilty to, or pled no contest to in a Louisiana court to Medicaid Fraud (LSA-R.S. 14:70.1) or any other criminal offense, including attempts to or conspiracy to commit a crime, relating to the performance of a provider agreement with the Medical Assistance Program is a violation of this provision. It is also a violation of this provision for a provider to employ, contract with, or otherwise affiliate with any person who has been convicted of, pled guilty, or pled no contest in a Louisiana court to Medicaid Fraud (LSA-R.S. 14:70.1) or any other criminal offense, including attempts to or conspiracy to commit a crime, relating to the performance of a provider agreement with the Louisiana Medicaid program.

a. The provider and provider-in-fact have an affirmative duty to:

i. inform BHSF in writing of any such convictions, guilty plea, or no contest plea to the above criminal conduct on the part of the provider, provider-in-fact, and/or their agents and/or affiliates;

ii. not hire, associate with, contract with, and/or affiliate with any person or entity who has been convicted, plead guilty to, or plead no contest to the above criminal conduct; and

iii. terminate any and all formal relationships with any person or entity who has been convicted, plead guilty to, or plead no contest to the above criminal conduct.

b. Failure to do so on the part of the provider and/or provider-in-fact within ten working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact, or their agents and/or affiliates is a violation of §4129.A.5.

c. If three years have passed since the completion of the sentence and no other criminal misconduct by that person has occurred during that three-year period, this provision is not violated. Criminal conduct which has been pardoned does not violate this provision.

12. Having been convicted of, pled guilty, or pled no contest in federal court, any state court, or court of any United States territory to criminal conduct involving the negligent practice of medicine or any other activity or skill related to an activity or skill performed by or billed by that person or entity under the Medical Assistance Program or one of its programs or which caused death or serious bodily, emotional, or mental injury to an individual under their care is a violation of this provision. It is also a violation of this provision for a provider to employ, contract with, or otherwise affiliate with any person who has been convicted of, pled guilty, or pled no contest in federal court, any state court, or court of any United States territory to criminal conduct involving the negligent practice of medicine or any other activity or skill related to an activity or skill preformed by or billed by that person or entity under

he Medical Assistance Program or one of its programs or which caused death or serious bodily, emotional, or mental injury to an individual under their care.

a. The provider and provider-in-fact have an affirmative duty to:

i. inform BHSF in writing of any such convictions, guilty plea, or no contest plea to the above criminal conduct on the part of the provider, provider-in-fact, and/or their agents and/or affiliates;

ii. not hire, associate with, contract with, and/or affiliate with any person or entity who has been convicted, plead guilty to, or plead no contest to the above criminal conduct; and

iii. terminate any and all formal relationships with any person or entity who has been convicted, pled guilty to, or pled no contest to the above criminal conduct.

b. Failure to do so on the part of the provider and/or provider-in-fact within ten working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact, or their agents and/or affiliates is a violation of §4129.A.5.

c. If three years have passed since the completion of the sentence and no other criminal misconduct by that person has occurred during that three-year period, this provision is not violated. Criminal conduct which has been pardoned does not violate this provision.

13. Having been convicted of, pled guilty, or pled no contest to Medicaid, Medicare or health care fraud, including attempts to or conspiracy to commit Medicaid, Medicare or health care fraud or any other criminal offense related to the performance of or providing any goods, services, or supplies to Medicaid or Medicare recipients and/or billings to any Medicaid, Medicare, publicly funded health care or publicly funded health insurance programs in any state court, federal court or a court in any territory of the United States is a violation of this provision. It is also a violation of this provision for a provider to employ, contract with, or otherwise affiliate with any person who has been convicted of, plead guilty, or plead no contest to Medicaid, Medicare, or health care fraud, including attempts to or conspiracy to commit Medicaid, Medicare or health care fraud, or any other criminal offense related to the performance of or providing any goods, services, or supplies to Medicaid or Medicare recipients and/or billings to any Medicaid, Medicare, publicly funded health care or publicly funded health insurance programs in any state court, federal court or a court in any territory of the United States.

a. The provider and provider-in-fact have an affirmative duty to:

i. inform BHSF in writing of any such convictions, guilty plea, or no contest plea to the above criminal conduct on the part of the provider, provider-in-fact, and/or their agents and/or affiliates;

ii. not hire, associate with, contract with, and/or affiliate with any person or entity who has been convicted, pled guilty to, or pled no contest to the above criminal conduct; and

iii. terminate any and all formal relationships with any person or entity who has been convicted, pled guilty to, or pled no contest to the above criminal conduct.

b. Failure to do so on the part of the provider and/or provider-in-fact within ten working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact, or their agents and/or affiliates is a violation of §4129.A.5.

c. If three years have passed since the completion of the sentence and no other criminal misconduct by that person has occurred during that three-year period, this provision is not violated. Criminal conduct which has been pardoned does not violate this provision.

14. Having been convicted of, pled guilty to, or pled no contest to in any federal court, state court, or court in any territory of the United States to any of the following criminal conduct, attempt to commit or conspiracy to commit any of the following crimes are violations of this provision:

a. bribery or extortion;

b. sale, distribution, or importation of a substance or item which is prohibited by law;

c. tax evasion or fraud;

d. money laundering;

e. securities or exchange fraud;

f. wire and/or mail fraud;

g. violence against a person;

h. act against the aged, juveniles or infirmed;

i. any crime involving public funds; or

j. other similar criminal conduct.

i. The provider and provider-in-fact have an affirmative duty to:

(a). inform BHSF of any such criminal charges, convictions, and/or pleas on the part of the provider, provider-in-fact, and/or their agents, and/or their affiliates;

(b). not hire, associate with, contract with, and/or affiliate with any person or entity who has engaged in such criminal misconduct; and

(c). terminate any and all formal relationships with any person or entity who has engaged any such criminal misconduct.

ii. Failure to do so on the part of the provider and/or provider-in-fact within ten working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact, or their agents and/or their affiliates is a violation of §4129.A.5.

iii. If three years have passed since the completion of the sentence and no other criminal misconduct by that person has occurred during that three-year period, this provision is not violated. Criminal conduct which has been pardoned does not violate this provision.

15. Being found in violation of or entering into a settlement agreement under this state's Medical Assistance Program Integrity Law, the Federal False Claims Act, Federal Civil Monetary Penalties Act, or any other similar civil statutes in this state, in any other state, United States or United States territory is a violation of this provision.

a. Relating to violations of this provision, the provider and provider-in-fact have an affirmative duty to:

i. inform BHSF of any violations of this provision on the part of the provider, provider-in-fact and/or their agents and/or their affiliates;

ii. not hire, associate with, contract with and/or affiliate with any person or entity who has violated this provision; and

iii. terminate any and all formal relationships with any person or entity who has violated this provision.

b. Failure to do so on the part of the provider and/or provider-in-fact within ten working days of when the provider or provider-in-fact knew or should have known of any violation of this provision by the provider, provider-in-fact or their agents and/or their affiliates is a violation of §4129.A.5.

c. If a False Claims Act action or other similar civil action is brought by a Qui-Tam plaintiff or under a little attorney general or other similar provision, no violation of this provision has occurred unless and until the governmental authority authorized to bring or intervene in the action has done so or the defendant has been found liable in the action.

d. If three years have passed from the time a person is found liable or entered a settlement agreement under the False Claims Act or other similar civil statute and the conditions of the judgement or settlement have been satisfactorily fulfilled, no violation has occurred under this provision.

16. Failure to correct the deficiencies or problem areas listed in a notice of corrective action and/or failure to meet the provisions of a corrective action plan and/or failure to correct deficiencies in delivery of goods, services, or supplies or deficiencies in billing practices or record keeping after receiving written notice to do so from the Secretary, Director of BHSF and/or Director of Program Integrity is a violation of this provision.

17. Having presented, causing to be presented, attempting to present, or conspiring to present false, fraudulent, fictitious, and/or misleading claims or billings for payment and/or reimbursement to the Medical Assistance Program through BHSF and/or its authorized fiscal intermediary for goods, services, and/or supplies, or in documents related to a cost report or other similar submission is a violation of this provision.

18. Engaging in the practice of charging and/or accepting payments, in whole or in part, from one or more recipients for goods, services, and/or supplies for which the provider has made or will make a claim for payment to the Louisiana Medicaid program is a violation of this provision, unless this prohibition has been specifically excluded within the program under which the claim was submitted or will be made or the payment by the recipient is an authorized copayment or is otherwise specifically authorized by law or regulation. Having engaged in practices prohibited by R.S. 46:438.2 and/or the federal anti-kickback or anti-referral statutes is also a violation of this provision.

19. Having rebated or accepted a fee or a portion of a fee and/or anything of value for a Medicaid recipient referral is a violation of this provision, unless this prohibition has been specifically excluded within the program or is otherwise authorized by statute and/or regulation, rule, policy, criteria and/or procedure of the department through BHSF. Having engaged in practices prohibited by R.S. 46:438.2 and/or the federal anti-kickback or anti-referral statutes is also a violation of this provision.

20. Paying to another a fee in cash or kind for the purpose of obtaining recipient lists or recipients names is a violation of this provision, unless this prohibition has been specifically excluded within the program or is otherwise authorized by statute and/or regulation, rule, policy, criteria and/or procedure of the department through BHSF. Using or possessing any recipient list or information which was obtained through unauthorized means or using such in an unauthorized manner is also a violation of this provision. Having engaged in practices prohibited by R.S. 46:438.2 or R.S. 46:438.4 and/or the federal anti-kickback or anti-referral statutes is also a violation of this provision.

21. Failure to repay or make arrangements to repay an identified overpayment or otherwise erroneous payment within ten working days after written notice of same is mailed to the provider and/or provider-in-fact is a violation of this provision. Failure to pay any and all administrative and/or court ordered restitution, civil money damages, criminal or civil fines, monetary penalties and/or costs or expenses is also a violation of this provision. Failure to pay any assessed provider fee and/or payment is also a violation of this provision.

22. Failure to keep or make available for inspection, audit, or copying records related to the Louisiana Medicaid program and/or one or more of its programs for which the provider has been enrolled and/or issued a provider number or has failed to allow BHSF or its fiscal intermediary and/or any other duly authorized governmental entity an opportunity to inspect, audit, and/or copy those records is a violation of this provision. Failure to keep records required by Medicaid or one of its programs until payment review has been conducted is also a violation of this provision;

23. Failure to furnish and/or arrange to furnish information or documents to BHSF within five working days after receiving a written request to provide that information to BHSF or its fiscal intermediary is a violation of this provision.

24. Failure to fully cooperate with BHSF, its fiscal intermediary and/or the investigating officer during the postpayment or prepayment process, investigative process, an investigatory discussion, informal hearing and/or the administrative appeal process or any other legal process or making, or caused to be made, a false or misleading statement of a material fact in connection with the postpayment or prepayment process, corrective action, investigation process, investigatory discussion, informal hearing and/or the administrative appeals process or any other legal process is a violation of this provision.

25. Making, or causing to be made, a false, fictitious or misleading statement or making, or caused to be made, a false, fictitious or misleading statement of a fact in connection with the administration of the Medical Assistance Program is a violation of this provision. This includes, but is not limited to, the following:

a. claiming costs for noncovered or nonchargeable services, supplies, or goods disguised as covered items;

b. billing for services, supplies, or goods which are not rendered to person(s) who are eligible to receive the services, supplies, or goods;

c. misrepresenting dates and descriptions and the identity of the person(s) who rendered the services, supplies, or goods;

d. duplicate billing;

e. upcoding of services, supplies, or goods provided;

f. misrepresenting a recipient's need or eligibility to receive services, goods, or supplies or the recipient's eligibility for a program;

g. improperly unbundling goods, services, or supplies for billing purposes;

h. misrepresenting the quality or quantity of services, goods, or supplies;

i. submitting claims for payment for goods, services, and supplies provided to nonrecipients if the provider knew or should have known that the individual was not eligible to receive the good, supply, or service at the time the good, service, or supply was provided and/or billed for;

j. furnishing and/or causing to be furnished goods, services, or supplies to a recipient which:

i. are in excess of the recipient's needs;

ii. were or could be harmful to the recipient;

iii. serve no real medical purpose;

iv. are of grossly inadequate or inferior quality;

v. were furnished by an individual who was not qualified under the applicable Louisiana Medicaid program to provide the good, service, or supply;

vi. the good, service, or supply was not furnished under the required programmatic authorization; or

vii. the goods, services or supplies provided were not provided in compliance with the appropriate licensing or certification board's regulations, rules, policies or procedures governing the conduct of the person who provided the goods, services or supplies;

k. providing goods, services, or supplies in a manner or form which is not within the normal scope and range of the standards used within the applicable profession;

l. billing for goods, services, or supplies in a manner inconsistent with the standards established in relevant billing codes or practices.

26. In the case of a managed care provider or provider operating under a voucher, notwithstanding any contractual agreements to the contrary, failure to provide all medically necessary goods, services, and/or supplies of which the recipient is in need and entitled to is a violation of this provision.

27. Submitting bills or claims for payment or reimbursement to the Louisiana Medicaid program through BHSF and/or its fiscal intermediary on behalf of a person or entity which is serving out a period of suspension or exclusion from participation in the Medical Assistance Program or one of its programs, Medicare, Medicaid, publicly funded health care and/or publicly funded health insurance program in any other state or territory of the United States or the United States is a violation of this provision except for bona fide emergency services provided during a bona fide medical emergency.

28. Engaging in a systematic billing practice which is abusive or fraudulent and which maximizes the costs to the Louisiana Medicaid program after written notice to cease such billing practice(s) is a violation of this provision.

29. Failure to meet the terms of an agreement to repay or settlement agreement entered into under this state's Medical Assistance Program Integrity Law or this regulation is a violation of this provision.

30. If the provider, a person with management responsibility for a provider, an officer or person owning, either directly or indirectly, any shares of stock or other evidence of ownership in a corporate provider, an owner of a sole proprietorship which is a provider, or a partner in a partnership which is a provider, is found to fall into one or more of the following categories.

a. The provider was previously terminated from participation in the Louisiana Medicaid program or one or more of its programs and:

i. was a person with management responsibility for a previously terminated provider during the time of the conduct which was the basis for that provider's termination from participation in the Louisiana Medicaid program or one or more of its programs; or

ii. was an officer or person owning, directly or indirectly, any shares of stock or other evidence of ownership in a previously terminated provider during the time of the conduct which was the basis for that provider's termination from participation in the Louisiana Medicaid program or one or more of its programs; or

iii. was an owner of a sole proprietorship or a partner of a partnership in a previously terminated provider during the time of the conduct which was the basis for that provider's termination from participation in the Louisiana Medicaid program or one or more of its programs.

b. The provider has engaged in practices prohibited by federal or state law or regulation and:

i. was a person with management responsibility for a provider during the time the provider engaged in practices prohibited by federal or state law or regulation; or

ii. was an officer or person owning, directly or indirectly, any shares of stock or other evidence of ownership in a provider during the time the provider engaged in practices prohibited by federal or state law or regulation; or

iii. was an owner of a sole proprietorship or a partner of a partnership which was a provider during the time the provider engaged in practices prohibited by federal or state law or regulation.

c. The provider was convicted of Medicaid or Medicare fraud or other criminal misconduct related to Medicaid or Medicare under federal or state law and:

i. was a person with management responsibility for a provider during the time the provider engaged in practices for which the provider was convicted of Medicaid or Medicare fraud or other criminal misconduct related to Medicaid or Medicare under federal or state law;

ii. was an officer or person owning, directly or indirectly, any of the shares of stock or other evidence of ownership in a provider during the time the provider engaged

n practices the provider was convicted of Medicaid or Medicare fraud or other criminal misconduct related to Medicaid or Medicare under federal or state law;

iii. was an owner of a sole proprietorship or a partner of a partnership which was a provider during the time the provider engaged in practices the provider was convicted of Medicaid or Medicare fraud or other criminal misconduct related to Medicaid or Medicare under federal or state law.

31. If the provider or provider-in-fact is terminated or suspended for cause from any health care or health insurance program, it is a violation of this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4131. Scope of a Violation

A. Violations may be imputed in the following manner.

1. The conduct of a provider-in-fact is always attributable to the provider. The conduct of a managing employee is always attributable to the provider and provider-in-fact.

2. The conduct of an agent of the provider, billing agent, and/or affiliate of the provider may be imputed to the provider and/or provider-in-fact if the conduct was performed within the course of his duties for the provider or was effectuated by him with the knowledge or approval of the provider or provider-in-fact.

3. The conduct of any person or entity operating on behalf of a provider may be imputed to the provider and/or provider-in-fact.

4. The provider and provider-in-fact are responsible for the conduct of any and all officers, employees or agents of the provider including any with whom the provider has a contract to provide managerial or administrative functions for the provider or to provide goods, services, or supplies on behalf of the provider. The conduct of these persons or entities may be imputed to the provider and/or provider-in-fact.

5. A violation under one Medicaid Number may be extended to any and all Medicaid Numbers held by the provider or provider-in-fact or which may be obtained by the provider and/or provider-in-fact.

6. Recoupments or recoveries may be made from any payments or reimbursement made under any and all provider numbers held by or obtained by the provider and/or provider-in-fact.

7. Any sanctions, including recovery or recoupment, imposed on a provider and/or provider-in-fact shall remain in effect until its terms have been satisfied. Any person or entity who purchases, merges or otherwise consolidates with a provider or employs or affiliates a provider-in-fact, agent of the provider or affiliate of a provider who has had sanctions imposed on it under this regulation assumes liability for those sanctions, if the person or entity knew or should have known about the existence of the sanctions, and may be subject to additional sanctions based on the purchase, merger, consolidation, affiliation or employment of the sanctioned provider or provider-in-fact.

8. A provider and/or provider-in-fact who refers a recipient to another for the purpose of providing a good, service, or supply to a recipient may be held responsible for any or all overbilling by the person to whom the recipient was referred; provided the referring provider or person knew or should have known that such overbilling was likely to occur.

9. Providers which are legal entities, i.e., clinics, corporations, HMOs, PPOs, etc., may be held jointly liable for the repayment or recoupment of any person within that legal entity.

10. Withholdings imposed on a provider may be extended to any or all provider numbers held or obtained by that provider and/or any provider-in-fact of that provider.

B. Any attributing, imputing, extension or imposing under this provision shall be done on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4133. Types of Violation

Violations can be of four different types: aberrant; abusive; willful; or fraudulent. Section 4133.A defines these four different types of violations.

Aberrant Practice—any practice that is inconsistent with the laws, regulations, rules, policies, criteria and/or practices and/or the terms in the provider agreement and/or signed forms related to the provider agreement and is applicable to the Louisiana Medicaid program and/or one or more of its programs in which the provider is enrolled or was enrolled at the time of the alleged occurrence.

Abusive Practice—any practice of which the provider has been informed in writing by the Secretary, Director of BHSF, and/or Director of Program is aberrant, and the provider, provider-in-fact, agent of the provider, and/or an affiliate of the provider continues to engage in that practice after the written notice to discontinue such a practice has been provided to the provider and/or provider-in-fact.

Fraudulent Practice—a deception or misrepresentation made by a person who had knowledge that the deception or misrepresentation was false, untrue, and/or wrong or failed to take reasonable steps to determine the truthfulness or correctness of information, and the deception or misrepresentation did or could have resulted in payment of one or more claims for which payment should not have been made or payment on one or more claims which would or could be greater than the amount entitled to. This includes any act or attempted act that could constitute fraud under either criminal or civil standards under applicable federal or Louisiana law.

Willful Practice—a deception or misrepresentation made by a person who knew, or should have known, that the deception or misrepresentation was false, untrue, misleading, and/or wrong or an aberrant or abusive practice which is so pervasive as to indicate that the practice was willful. A willful practice also includes conduct which would be in violation of this state's Medical Assistance Program Integrity Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4135. Elements

A. Each type of violation contains different elements which must be established.

1. A finding of an aberrant practice does not require proof of knowledge, intent, or overpayment or attempted overpayment.

2. A finding of an abusive practice requires notice of the aberrant practice and its continued existence following that notice, but does not require proof of intent or overpayment or attempted overpayment.

3. A finding of willful practice requires that the person knew or should have known of the deception or misrepresentation, but does not require proof of intent or overpayment or attempted overpayment.

4. A finding of fraudulent practice requires knowledge, intent and overpayment or attempted overpayment.

B. Providers, providers-in-fact, agents of the provider, affiliates of the provider and other persons may be found to have engaged in the same prohibited conduct but committed different types of violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Subchapter E. Administrative Sanctions, Procedures and Processes

§4137. Sanctions for Prohibited Conduct

Any or all of the following sanctions may be imposed for any one or more of the above listed kinds of prohibited conduct, except as provided for in this regulation.

1. Issue a warning to a provider and/or provider-in-fact or other person through written notice and/or consultation.

2. Require that the provider and/or provider-in-fact, their affiliates, and agents receive education and training in laws, regulations, rules, policies, criteria and procedures, including billing, at the provider's expense.

3. Require that the provider and/or provider-in-fact receive prior authorization for any or all goods, services and/or supplies under the Louisiana Medicaid program and/or one or more of its programs.

4. Require that some or all of the provider’s claims be subject to manual review.

5. Require a provider and/or provider-in-fact to post a bond or other security or increase the bond or other security already posted as a condition of continued enrollment in the Louisiana Medicaid program and/or one or more of its programs.

6. Require that a provider terminate its association with a provider-in-fact, agent of the provider, and/or affiliate as a condition of continued enrollment in the Louisiana Medicaid program and/or one or more of its programs.

7. Prohibit a provider from associating, employing and/or contracting with a specific person and/or entity as a condition of continued participation in the Louisiana Medicaid program and/or one or more of its programs.

8. Prohibit a provider, provider-in-fact, agent of the rovider, billing agent or affiliate of the provider from performing specified tasks and/or providing goods, services, or supplies at designated locations or to designated recipients and/or classes or types of recipients.

9. Prohibit a provider, provider-in-fact, and/or agent from referring recipients to another designated person and/or purchasing goods, services, or supplies from designated persons.

10. Recoupment.

11. Recovery.

12. Impose judicial interest on any outstanding recovery or recoupment.

13. Impose reasonable costs and expenses incurred as the direct result of the investigation and/or review, including but not limited to the time and expenses incurred by departmental employees or agents and the fiscal intermediary's employee or agent.

14. Exclusion from the Louisiana Medicaid program and/or one or more of its programs.

15. Suspension from the Louisiana Medicaid program and/or one or more of its programs pending the resolution of the department's administrative appeals process.

16. Impose a bond or other form of security as a condition of continued participation in the Medical Assistance Program.

17. Require the forfeiture of a bond or other security.

18. Impose an arrangement to repay.

19. Impose monetary penalties not to exceed $10,000 per violation.

20. Impose withholding of payments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4139. Scope of Sanctions

A. Sanction(s) imposed can be extended to other persons and/or entities and to other provider numbers held or obtained by the provider in the following manner.

1. Sanction(s) imposed on a provider or provider-in-fact may be extended to a provider and/or provider-in-fact.

2. Sanction(s) imposed on an agent of the provider and/or affiliate of the provider may be imposed on the provider and/or provider-in-fact if it can be shown that the provider and/or provider-in-fact knew or should have known about the violation(s) and failed to report the violation(s) to BHSF in writing in a timely manner.

3. Sanction(s) imposed on a provider or provider-in-fact arising out of goods, services, and/or supplies to a referred recipient may also be imposed on the referring provider if it can be shown that the provider and/or provider-in-fact knew or should have known about the violation(s) and failed to report the violation(s)to BHSF in writing in a timely manner.

4. Sanction(s) imposed under one provider number may be extended to all provider numbers held by and/or which may be obtained in the future by the sanctioned provider or provider-in-fact, unless and until the terms and conditions of the sanction(s) has been fully satisfied.

5. Sanction(s) imposed on a person remains in effect unless and until its terms and conditions are fully satisfied. The

erms and conditions of the sanction(s) remain in effect in the event of the sale or transfer of ownership of the sanctioned provider.

a. The entity or person who obtains ownership interest in a sanctioned provider assumes liability and responsibility for the sanctions imposed on the purchased provider including, but not limited to, all recoupments and/or recovery of funds or arrangements to repay that the entity or person knew or should have known about.

b. An entity or person who employs or otherwise affiliates itself with a provider-in-fact who has been sanctioned assumes the liability and responsibility for the sanctions imposed on the provider-in-fact that the entity or person knew or should have known about.

c. Any entity or person who purchases an interest in, merges with or otherwise consolidates with a provider which has been sanctioned assumes the liability and responsibility for the sanction(s) imposed on the provider that the entity or person knew or should have known about.

B. Exclusion from participation in the Louisiana Medicaid program precludes any such person from submitting claims for payment, either personally or through claims submitted by any other person and/or entity, for any goods, services, and/or supplies provided by an excluded person and/or entity, except bona fide emergency services provided during a bona fide medical emergency. Any payments made to a person or entity which are prohibited by this provision shall be immediately repaid to the Medical Assistance Program through BHSF by the person and/or entity which received the payments.

C. No provider shall submit claims for payment to the department and/or its fiscal intermediary for any goods, services, and/or supplies provided by a person or entity within that provider who has been excluded from the Medical Assistance Program or one or more of its programs for goods, services, and/or supplies provided by the excluded person and/or entity under the programs which it has been excluded from except for goods, services, and/or supplies provided prior to the exclusion, except for bona fide emergency services provided during a bona fide medical emergency. Any payments made to a person or entity which are prohibited by this provision shall be immediately repaid to the Medical Assistance program through BHSF by the person and/or entity which received the payments.

D. When the provisions of §4133 B-C are violated, the person or entity which committed the violations may be sanctioned using any and all of the sanctions provided for in this rule.

E. Extending of sanctions must be done on a case-by-case basis.

F. The provisions in R.S. 46:437.10 shall apply to all sanctions and withholding imposed pursuant to this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4141. Imposition of Sanction(s)

A. The decision as to the sanction(s) to be imposed shall be at the discretion of the Secretary, Director of BHSF and/or irector of Program Integrity except as provide for in this provision, unless the sanction is mandatory. The Secretary, Director of BHSF and/or Director of Program Integrity may impose one or more sanctions for a single violation. The imposition of one sanction does not preclude the imposition of another sanction for the same or different violations.

B. At the discretion of the Secretary, Director of BHSF and/or Director of Program each occurrence of misconduct may be considered a violation or multiple occurrences of misconduct may be considered a single violation or any combination thereof.

C. The following factors may be considered in determining the sanction(s) to be imposed:

1. seriousness of the violation(s);
2. extent of the violation(s);
3. history of prior violation(s);
4. prior imposition of sanction(s);
5. prior provision of education;
6. willingness to obey program rules;
7. whether a lesser sanction will be sufficient to remedy the problem;
8. actions taken or recommended by peer review groups or licensing boards;
9. cooperation related to reviews or investigations by the department and/or cooperation with other investigatory agencies; and
10. willingness and ability to repay identified overpayments.

D. Notwithstanding §4141.A of this provision, sanctions of judicial interest, costs and expenses and monetary penalties shall be imposed only after a determination that the violation is abusive, willful or fraudulent unless it is shown that the denial of the violation is frivolous or without merit, in which case interest and/or costs may be imposed regardless of the type of violation involved.

E. Notwithstanding §4141.A of this Provision, a monetary penalty may be imposed only after a finding that the violation involved a willful practice or fraudulent practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4143. Mandatory Sanctions

A. Mandatory Exclusion from the Medical Assistance Program. Notwithstanding any other provision to the contrary, the Secretary, Director of BHSF, and/or Director of Program Integrity has no discretion and must exclude the provider, provider-in-fact or other person from the Medical Assistance Program if the violation involves one or more of the following:

1. a conviction, guilty plea, or no contest plea to a criminal offense(s) in federal and/or Louisiana state court related, either directly or indirectly, to participation in either Medicaid or Medicare;
2. has been excluded from Louisiana Medicaid and/or Medicare; or
3. has failed to meet the terms and conditions of a Repayment Agreement, settlement or judgment entered into under this state's Medical Assistance Program Integrity Law.

a. In these situations the exclusion from the Medical Assistance Program is automatic and can be longer than, but not shorter in time than, the sentence imposed in criminal court, the exclusion from Medicaid or Medicare and/or time provided to make payment.

b. The exclusion is retroactive to the time of the conviction, plea, exclusion, the date the repayment agreement was entered by the department and/or the settlement or judgment was entered under this state's Medical Assistance Program Integrity Law.

c. Proof of the conviction, plea, exclusion, failure to meet the terms and conditions of a repayment agreement, or settlement or judgment entered under this state's Medical Assistance Program Integrity Law can be made through certified and/or true copies of the conviction, plea, exclusion, agreement to repay, settlement, or judgment or via affidavit.

i. If the conviction is overturned, plea set aside, or exclusion or judgment are reversed on appeal, the mandatory exclusion from the Medical Assistance Program shall be removed.

ii. The person and/or entity which is excluded from the Medical Assistance Program under §4143.A is entitled to an administrative appeal of a mandatory exclusion.

iii. The facts and law surrounding the criminal matter, exclusion, repayment agreement or judgment which serves as the basis for the mandatory exclusion from the Medical Assistance Program cannot be collaterally attacked at the administrative appeal.

B. Mandatory Arrangements to Pay, Recoupment or Recovery. If the violation(s) was fraudulent or willful and resulted in an identified overpayment, the Secretary, Director of BHSF, and/or Director of Program Integrity manager has no discretion. The person or entity must have imposed on them an arrangement to repay, recoupment and/or recovery of the identified overpayment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4145. Effective Date of a Sanction

All sanctions, except exclusion, are effective upon the issuing of the notice of the results of the informal hearing. The filing of a timely and adequate notice of administrative appeal does not suspend the imposition of a sanction(s), except that of exclusion. In the case of the imposition of exclusion from the Louisiana Medicaid program and/or one or more of its programs, the filing of a timely and adequate notice of appeal suspends the imposition of the sanction. In the case of an exclusion, the Secretary, Director of BHSF, and/or Director of Program Integrity may impose a suspension from the Medical Assistance Program and/or one or more of its programs during the pendency of an administrative appeal. A sanction becomes a final administrative adjudication if no administrative appeal has been filed, and the time for filing an administrative appeal has run. Or in the case of a timely filed notice of administrative appeal, a sanction(s) becomes a final administrative adjudication when the order on appeal has been entered by the Secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Subchapter F. Withholding

§4147. Withholding of Payments

A. If, during the course of claims review, the Director of BHSF, and/or the Director of Program Integrity has a reasonable expectation that an overpayment to a provider may have occurred or may occur, that a provider or provider-in-fact has failed to cooperate or attempted to delay or obstruct an investigation, or has information that fraudulent, willful or abusive practices may have been used, or that willful misrepresentations may have occurred, the Director of BHSF and/or the Director of Program Integrity may initiate the withholding of payments to a provider for the purpose of protecting the interest and fiscal integrity of the Louisiana Medicaid program.

B. Basis for Withholding. The Director of BHSF and/or the Director of Program Integrity may withhold a portion of or all payments or reimbursements to be made to a provider upon receipt of information that overpayments have been made to a provider, that the provider or provider-in-fact has failed to cooperate or attempted to delay or obstruct an investigation, that fraudulent, willful or abusive practices may have occurred or that willful misrepresentation has occurred. If the Director of BHSF and/or the Director of Program Integrity has been informed in writing by a prosecuting authority that a provider and/or provider-in-fact has been formally charged or indicted for crimes or is being investigated for potential criminal activities which relate to the Louisiana Medicaid program or one or more of its programs and/or Medicare, payments to that provider may be withheld. If the Director of BHSF and/or the Director of Program Integrity has been informed in writing by any governmental agency or authorized agent of a governmental agency that a provider or a provider-in-fact is being investigated by that governmental agency or its authorized agent for billing practices related to any government funded health care program, payment may be withheld. Withholding of payments may occur without first notifying the provider.

C. Notice of Withholding

1. The provider shall be sent written notice of the withholding of payments within five working days of the actual withholding of the first check which is subject of the withholding. The notice shall set forth in general terms the reason(s) for the action, but need not disclose any specific information concerning any ongoing investigations nor the source of the allegations. The notice must:

a. state that payments are being withheld;

b. state that the withholding is for a temporary period and cite the circumstances under which the withholding will be terminated;

c. specify to which type of Medicaid claims withholding is effective;

d. inform the provider of its right to submit written documentation for consideration and to whom to submit that documentation.

2. Failure to provide timely notice of the withholding to the provider or provider-in-fact may be grounds for dismissing or overturning the withholding, except in cases involving written notification from outside governmental authorities, abusive practice, willful practices or fraudulent practices.

D. Duration of Withholding

1. All withholding of payment actions under §4147.D will be temporary and will not continue after:

a. the Director of BHSF and/or the Director of Program Integrity has determined that insufficient information exists to warrant the withholding of payments;

b. recoupment and/or recovery of overpayments has been imposed on the provider;

c. the provider or provider-in-fact has posted a bond or other security deemed adequate to cover all past and future projected overpayments by the Director of BHSF and/or the Director of Program Integrity;

d. the notice of the results of the informal hearing.

2. In no case shall withholding remain in effect past the issuance of the notice of the results of the informal hearing, unless the withholding is based on written notification by an outside agency that an active and ongoing criminal investigation is being conducted or that formal criminal charges have been brought. In that case, the withholding may continue for as long as the criminal investigation is active and ongoing and/or the criminal charges are still pending, unless adequate bond or other security has been posted with BHSF.

E. Amount of the Withholding

1. If the withholding of payment results from projected overpayments which The Director of BHSF and/or the Director of Program Integrity determines not to be related to fraudulent, willful or abusive practices, obstruction or delay in investigation or based on written notification from an outside agency, then when determining the amount to be withheld, the ability of the provider to continue operations and the needs of the recipient serviced by the provider shall be taken into consideration by the Director of BHSF and/or the Director of Program Integrity. In the event that a recipient cannot receive needed goods, services or supplies from another source arrangements shall be made to assure that the recipient can receive goods, supplies, and services. The burden is on the provider to demonstrate that absent that provider's ability to provide goods, supplies, or services to that recipient, the recipient could not receive needed good, supplies, or services. Such showing must be made at the Informal Hearing.

2. The amount of the withholding shall be determined by the Director of BHSF and/or the Director of Program Integrity. The provider should be notified of the amount withheld every 60 days from the date of the issuing of the Notice of Withholding until the withholding is terminated or the Results of the Informal Hearing is issued, whichever comes first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

4149. Effect of Withholding on the Status of a Provider or Provider-in-Fact with the Medical Assistance Program

Withholding of payments does not, in and of its self, affect the status of a provider or provider-in-fact. During the period of withholding, the provider may continue to provide goods, services, or supplies and continue to submit claims for them, unless the provider has been suspended or excluded from participation. Any and all amounts withheld or bonds or other security posted may be used for recovery, recoupment or arrangements to pay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Subchapter H. Arrangements to Repay

§4151. Arrangement to Repay

A. Arrangements to repay may be mutually agreed to or imposed as a sanction on a provider, provider-in-fact, agent of the provider, and/or affiliate of the provider. Arrangements to repay identified overpayments, interest, monetary penalties and/or costs and expenses should be made through a lump sum single payment within 60 days of reaching or imposing the arrangement to repay. However, an agreement to repay may contain installment terms and conditions. In such cases, the repayment period cannot extend past two years from the date the agreement is reached or imposed, except that a longer period can be established by the Secretary. In such a case the agreement to repay must be signed by the Secretary.

B. All agreements to repay must contain at least:

1. the amount to be repaid;
2. the person(s) responsible for making the repayments;
3. a specific time table for making the repayment;
4. if installment payments are involved, the date upon which each installment payment is to be made; and
5. the security posted to assure that the repayments will be made, and if not made, the method through which the security can be seized and converted by Medicaid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Subchapter I. Corrective Actions

§4153. Corrective Actions Plans

The following procedures are established for the purpose of attempting to resolve problems prior to the issuing of a notice of sanction and/or for resolution during the informal hearing and/or administrative hearing.

1. Corrective Action Plan—Notification

a. The Director of BHSF, and/or the Director of Program Integrity may at anytime issue a notice of corrective action to a provider or provider-in-fact, agent of the provider, and/or affiliate of the provider. The provider, provider-in-fact, agent of the provider, and/or affiliate of the provider shall either comply with the corrective action plan within ten working days or request an informal hearing. The purpose of a Corrective Action Plan is to identify potential problem areas

and correct them before they become significant discrepancies, deviations or violations. This is an informal process.

i. The request for an informal hearing must be made in writing.

ii. If the provider, provider-in-fact, agent of the provider, and/or affiliate of the provider opts to comply, it must do so in writing, signed by the provider, provider-in-fact, agent of the provider, and/or affiliate of the provider.

b. Corrective action plans are also used to resolve matters at or before the informal hearing or administrative appeal process. When so used they serve the same function as a settlement agreement.

2. Corrective Action Plan—Inclusive Criteria. The corrective action plan must be in writing and contain at least the following:

a. the nature of the discrepancies and/or violations;

b. the corrective action(s) that must be taken;

c. notification of any action required of the provider, provider-in-fact, agent of the provider, billing agent and/or affiliate of the provider;

d. notification of the right to an informal hearing on any or all of the corrective actions which the provider, provider-in-fact, agent of the provider, and/or affiliate of the provider is not willing to comply with within ten working days of the date of the notice; and

e. the name, address, telephone and facsimile number of the individual to contact in regards to compliance and/or requesting an informal hearing.

3. Corrective Action Plans—Restrictions. Corrective actions which may be included in a corrective action plan are the following:

a. issuing a warning through written notice and/or consultation;

b. require that the provider, provider-in-fact, agent of the provider, and/or affiliate receive education and training in the law, regulations, rules, policies, criteria and procedures related to the Medical Assistance Program, including billing practices and/or programmatic requirements and practices. Such education and/or training may be at the provider or provider-in-fact's expense.

c. require that the provider receive prior authorization for any or all goods, services, and/or supplies to be rendered;

d. place the provider's claims on manual review status before payment is made;

e. restrict or remove the provider's privilege to submit bills or claims electronically;

f. impose any restrictions deemed appropriate by the Director of BHSF and/or the Director of Program Integrity; or

g. any other items mutually agreed to by the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider and/or other person and the Director of BHSF and/or the Director of Program Integrity, including, but not limited to, one or more of the sanctions listed in this regulation and an agreement to repay.

4. Only restrictions in §4153.A.3.a.-f can be imposed on a provider, provider-in-fact, agent of the provider, billing agent, and/or affiliate of the provider without their agreement. Any other items included in a corrective action plan must be utually agreed to among the parties to the corrective action plan.

5. A corrective action plan is effective twenty days after the date of mailing and/or faxing to the provider, provider-in-fact, agent of the provider, and/or affiliate of the provider.

6. No right to an informal hearing or administrative appeal can arise from a corrective action plan, unless the corrective action plan violates the provisions of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Subchapter J. Informal Hearing Procedures and Processes

§4155. The Informal Hearing

A. A provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider and/or other person who has received notice of a corrective action(s) which that person does not agree with and has timely made a request for an informal hearing, and/or notice of administrative sanction or withholding of payment shall be provided with the opportunity to be heard at an informal hearing. The time and place for the informal hearing will be set out in the notice of setting of the informal hearing.

B. The informal hearing is designed to provide the opportunity:

1. to provide the provider, provider-in-fact, agent of the provider, billing agent, the affiliate of the provider and/or other person an opportunity to informally review the situation;

2. for the agency to offer alternatives based on information presented by the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider, and/or other person, if any; and

3. for the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider and/or other person to evaluate the necessity for seeking an administrative appeal. During the informal hearing, the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider and/or other person may be afforded the opportunity to talk with the department's personnel involved in the situation, to review pertinent documents on which the alleged violations are based, to ask questions, to seek clarification, and to provide additional information. At the option of the Director of Program Integrity and/or the SURS Manager an informal hearing may be recorded.

C. Notice of the Results of the Informal Hearing

1. Following the informal hearing, BHSF shall inform the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider and/or other person in writing of the results which could range from canceling, modifying, or upholding the action in the notification and the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider and/or other person's right to an administrative appeal.

2. The provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider and/or other person has the right to request an administrative appeal within thirty days of the mailing of the notice of the results of the informal

earing. At any time prior to the issuance of the written results of the informal hearing, the notice of corrective action or notice of administrative sanction or withholding of payment may be modified.

a. If a finding or reason is dropped from the notice, no additional time will be granted to the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider and/or other person to prepare for the informal hearing.

b. If additional reasons and/or sanctions are added to the notice prior to, during or after the informal hearing, the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider and/or other person shall be granted an additional ten working days to prepare responses to the new reasons and/or sanctions, if such a request is made in writing by the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider and/or other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Subchapter K. Administrative Appeals

§4157. Administrative Appeal

A. The provider, provider-in-fact, agent of the provider, billing agent, and/or affiliate of the provider may seek an administrative appeal from the notice of the results of an informal hearing if the provider, provider-in-fact, agent of the provider, billing agent, and/or affiliate of the provider has had one or more appealable sanctions imposed upon him or an appealable issue exists related to a corrective action plan imposed in a notice of the results of the informal hearing.

B. The notice of administrative appeal must be adequate as to form and lodged with the Bureau of Appeals within thirty days of the date on the notice of the results of the informal hearing. The lodging of a timely and adequate request for an administrative appeal does not affect the imposition of a corrective action plan or a sanction, unless the sanction imposed is exclusion. All sanctions imposed through the notice of the results of the informal hearing are effective upon mailing or FAXing of the notice of the results of the informal hearing to the provider, provider-in-fact, agent of the provider, billing agent, affiliate of the provider and/or other person, except exclusion from participation in the Medical Assistance Program or one or more of its programs.

C. In the case of an exclusion from participation if the Director of BHSF and/or the Director of Program Integrity determines that allowing that person to participate in the Medicaid Program during the pendency of the administrative appeal process poses a threat to the programmatic or fiscal integrity of the Medicaid Program or poses a potential threat to health, welfare or safety of any recipients, then that person may be suspended from participation in the Medicaid Program during the pendency of the administrative appeal. If the exclusion is mandatory a threat to Medicaid Program and/or recipients is presumed. This determination shall be made following the Informal Hearing.

D. Failure to lodge a timely and adequate request for an administrative appeal will result in the imposition of any and ll sanctions in the notice of the results of the informal hearing and/or the corrective action plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4159. Right to Administrative Appeal and Review

A. Only the imposing of one or more sanctions can be appealed to the department's Bureau of Appeals.

1. The adversely effected party has the right to challenge the basis for the violation and the sanction imposed.

2. The adversely effected party must state specifically what the basis for the appeal is and what actions are being challenged on appeal.

B. The following actions are not sanctions, even if listed as such in the notice of sanction or notice of the results of the informal hearing, and are not subject to appeal or review by the department's Bureau of Appeals:

1. referral to a state, federal and/or professional licensing authority;

2. referral to the Louisiana Attorney General's Medicaid Fraud Control Unit or any other authorized law enforcement or prosecutorial authority;

3. referral to governing boards, peer review groups or similar entities;

4. issuing a warning to a provider and/or provider-in-fact or other person through written notice and/or consultation;

6. require that the provider, and/or provider-in-fact, their affiliates and agents receive education and training in laws, regulations, rules, policies, and procedures, including billing;

7. conducting prepayment or postpayment review;

8. place the provider's claims on manual review status before payment is made;

9. require that the provider and/or provider-in-fact receive prior authorization for any or all goods, services, and/or supplies under the Louisiana Medicaid program and/or one or more of its programs;

10. remove or restrict the provider's use of electronic billing;

11. any restrictions imposed as the result of a corrective action plan;

12. any restrictions agreed to by a provider, provider-in-fact, agent of the provider, and/or affiliate of the provider;

13. any terms or conditions contained in an arrangement to repay which has been agreed to by a provider, provider-in-fact, agent of the provider, and/or affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Subchapter L. Miscellaneous

§4161. Mailing

Mailing refers to the sending of a hard copy via U.S. mail or commercial carrier. Sending via facsimile is also acceptable, so long as a hard copy is mailed. The date of issuing or filing shall be the date of mailing or faxing, whichever occurred first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4163. Confidentiality

All contents of claim reviews and investigations conducted under this regulation shall remain confidential until a final administrative adjudication is entered. Prior to that, only the parties and/or their authorized agents and representatives may review the contents of the payment review and investigatory files, unless by law others are specifically authorized to have access to those files. These files may be released to law enforcement agencies, other governmental investigatory agencies, and/or specific individuals within the department who are authorized by the Secretary to have access to such information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4165. Severability Clause

If any provision of this regulation is declared invalid and/or unenforceable for any reason by any court of this state or federal court of proper venue and jurisdiction, that provision shall not affect the validity of the entire regulation or other provisions thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§4167. Effect of Promulgation

This regulation, when promulgated, shall supersede any and all other departmental regulations which conflict with the provisions of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 46:437.1-46:440.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Interested persons may submit written comments to 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 the proposed rule. A public hearing will be held on this matter Tuesday, July 28, 1998 at 9:30 a.m. in the first floor auditorium of the Department of Transportation and Development 1201 Capitol Access Road, Baton Rouge, Louisiana. 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 following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Surveillance and Utilization Review Systems (SURS)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no fiscal impact resulting from the implementation of this proposed rule for SFYs 1998, 1999, and 2000. However, state costs for promulgating this proposed rule, as well as the final rule, are $1,866 and will be incurred in SFY 1999.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no Federal revenue collections. However, the federal share of printing this proposed rule, as well as the final rule, is $1,866.

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 non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Thomas D. Collins
Director
9806#064

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Targeted Case Management Services—Selective Contract

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

The Bureau of Health Services Financing currently provides coverage for case management services provided to home and community based services waiver participants and certain targeted populations. Currently, participation in the Medicaid Program as a provider of target case management services is open to any agency that meets the provider enrollment criteria described in the June 1997 rule governing case management services and the Case Management Services Provider Manual (*Louisiana Register*, Volume 23, Number 6).

In consultation with the Department of Education, the Office of Public Health, the Office of Elderly Affairs and the Office for Citizens with Developmental Disabilities, the Bureau proposes to reduce the number of case management agencies that may participate in the Medicaid program requirements and service descriptions will be clarified in the

request for proposals document. This action is necessary to ensure access to case management services in all regions of the state.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions to establish a selective contract for provider participation in the Medicaid Program for the delivery of case management services.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, July 28, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Targeted Case Management Services—Selective Contract

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No costs or savings to the state can be determined at this time. However, $80 will be incurred in SFY 1998 for the state's administrative expense of promulgating the proposed rule as well as the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections. However, $80 will be incurred in SFY 1998 for the federal share of promulgating this proposed rule as well as the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of the selective contract process will significantly reduce the number of providers of case management services participating in the Medicaid Program. However, the selective contract process will not affect Medicaid recipients' access to case management services. The selective contract process will enhance access to services by assuring sufficient case management participation among case management providers in all regions of the state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The number of case management agencies participating in the Medicaid will be reduced through a selective contract process established by the Bureau of Health Services Financing.

Thomas D. Collins
Director
9806#066

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 65—Bail Bond/Bounty Hunter

Under the authority of Louisiana Revised Statutes Title 22, Sections 3, 7, 10, 658.1, 1065.1, 1113, 1404.3 and 1191(B), the Department of Insurance gives notice that the following proposed regulation is to become effective September 30, 1998. This intended action complies with the statutory law administered by the Department of Insurance.

Section 1. Purpose

The purpose of this regulation is to establish guidelines for premium fee administration, transacting an apprehension or surrender of a principal, bond surrender due to nonpayment of premium, prelicensing for applicants and continuing education for licensed agents or solicitors, bail bonds, fines and hearings, definitions and related matters.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the Commissioner of Insurance under the Administrative Procedure Act and R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

Section 3. Definitions

The following terms when used in this Chapter shall have the following meanings:

Bail Bond Agent—a person, corporation, or partnership which holds an insurance agent or solicitor license and is authorized to provide surety in Louisiana, and/or engages in the apprehension and return of persons who are released on bail or failed to appear at any state of the proceedings to answer the charge before the court in which they may be prosecuted. For purposes of this regulation a bail recovery agent is synonymous with a bail bond agent.

Bail Enforcement—the apprehension or surrender of a principal by a natural person, who is released on bail or who has failed to appear at any state of the proceedings to answer the charge before the court in which he may be prosecuted.

Bail Solicitor—an individual who holds an insurance license and is authorized by a duly licensed bail bond agent to solicit contracts of bail bond insurance and engages in bail enforcement, solely on behalf of the licensed bail bond agent.

Commissioner—the Louisiana Commissioner of Insurance.

Department—Louisiana Department of Insurance.

Insurer—any domestic or foreign insurance corporation or association engaged in the business of insurance or suretyship which has qualified to transact surety or casualty business in this state.

Surrender—as defined by the LSA-CCRP Article 345.

Section 4. Bail Recovery Agent License Requirements

A. In order to engage, to transact, or assist in the apprehension or surrender of a principal, a person must be a duly licensed bail bond agent or solicitor, pursuant to Part XXIV and Part XXV-A of the Louisiana Insurance Code.

(1) Continuing Education Program

(a) Persons holding a valid bail bond agent or solicitor license must complete 16 hours of a continuing education program, approved by the department, every two years. Four hours of which, must be instruction in bail enforcement.

(b) On or before January 1st of every odd numbered year, all duly licensed bail bond agents shall have completed 16 hours of continuing education described in this Section.

(c) On and after May 1, 2000, no person shall engage in the bail bond insurance business, including enforcement and bail recovery activities, unless such person is duly licensed bail bond agent or solicitor pursuant to Part XXIV and Part XXV-A of the Louisiana Insurance Code.

(2) Prelicensing. On and after May 1, 1999, all persons applying for a bail bond agent or solicitor license must complete 16 hours of supervised instruction, approved by the department. Eight hours of which, must be instruction in bail enforcement.

B. Bail recovery agents from other states must be duly authorized to transact bail enforcement or be a licensed bail bond agent in the state where the bond was written in order to transact any surrender or apprehension of a principal in the state of Louisiana. Bail recovery agents from other states must have in their possession certified copies of material needed to identify the principal. Said materials shall be:

(1) judgment of bond forfeiture or Court Order of failure to appear and/or certified copy of bond and/or agent's duly executed copy of the contract;

(2) photograph of individual; and

(3) documentation reflecting that person is duly authorized to transact bail enforcement by the state where the bond was written.

Section 5. Enforcement

A. The Commissioner is vested with the authority to enforce this Regulation. The Department may conduct investigations or request other state, parish or local officials to conduct investigations and promulgate such rules and regulations as may be deemed necessary for the enforcement of this regulation. The Department shall impose penalties, sanctions or fines as delineated in the Louisiana Insurance Code and collect such fines as necessary for the enforcement of such rules and regulations.

B. At all times while performing bail enforcement, bail bond agents or solicitors shall wear clothing that identifies their bail bonding company or clothing that identifies their bail bonding agency or clothing that identifies them as a bail recovery agent. A bail bond agent or solicitor involved in a bail recovery shall not wear clothing that suggests that they are police officers or government agents. The identity of the bail bonding company, bail bond agent or solicitor agent must be written out in full on both sides of the clothing. The size of the lettering must not be less than ½ inch on the front of the clothing and must be no less than 2 inches on the rear of clothing. All lettering on the front must be uniform in size and all lettering on the rear must be uniform in size. The bail bond agent or solicitor on site during a bail enforcement shall have on his person the license issued from the Commissioner of Insurance. If any law enforcement authority is contacted or if a complaint is filed with the district attorney's office as a result f any activity which occurs during bail enforcement, the district attorney or the law enforcement authority may deliver to the commissioner a copy of any reports or complaints which allege violations of this Regulation.

C. A principal may not be placed into a jail on a bond surrendered for nonpayment of a premium. The agent or solicitor must serve the principal and an officer at the jail where the principal is incarcerated with a letter stating the principal has a right to have a hearing with the commissioner if the principal alleges his rights under this Part have been violated. The letter must be served at the time of the surrender on both the principal and the officer who accepts the principal into custody. The Commissioner shall decide if any fines shall be due under this Regulation. No handcuffs or lethal weapons shall be used in the apprehension or surrender of a principal when the bail recovery agent decides to surrender a principal in cases where there is no bond forfeiture or the principal has not fled the jurisdiction of the court.

D. In order to transact a surrender or apprehension of a principal, the following shall be done.

(1) The bail bond agent or solicitor, before conducting a surrender or apprehension of a principal shall notify the local law enforcement in the parish or city where the principal is sought.

(2) The bail bond agent or solicitor is required to provide the sheriff or local police of that area with a copy of all documentation that identifies the principal to be surrendered or apprehended. Such documentation shall be:

(a) certified copy of judgment of bond forfeiture;

(b) certified copy of bond and/or duly executed agent's copy of the application; and

(c) photograph of person to be surrendered.

E. Violations of this Section are governed by Part XXIV (Qualification and License Requirements for Insurance Agents, Brokers, Surplus Lines Brokers and Solicitors) and XXVI (Unfair Trade Practices) of the Louisiana Insurance Code, the commissioner shall impose penalties, sanctions, or fines as delineated in Part XXIV and XXVI of the Louisiana Insurance Code and may seek injunctive relief against all licensed persons who violate the provisions contained herein.

Section 6. Suspension or Revocation of License; Fines; Prohibited Acts

A. No licensed bail agent or solicitor shall improperly withhold, misappropriate, fail to timely remit premiums and reports of bonds written, or convert to one's own use any monies belonging to principals, sureties and underwriters, or others possessed in the course of the business of insurance.

B. No licensed bail agent or solicitor shall perform bail enforcement in pursuit of any principal release on bail for nonpayment of premium.

C. No licensed bail agent or solicitor shall fail to return the premiums when a bond is revoked for the nonpayment of premium.

D. No licensed bail agent or solicitor shall remove or have removed any bail bond power of attorney from the clerk of court or sheriff.

E. No licensed bail agent or solicitor shall transact or engage in the surrender or apprehension of a principal with the assistance of an unlicensed person.

F. No commercial surety shall fail to timely pay bond forfeiture claims that meet the requirements of LSA-R.S. 22:658.1A.

G. Violations of this Section are governed by Part XXIV (Qualification and License Requirements for Insurance Agents, Brokers, Surplus Lines Brokers and Solicitors) and XXVI (Unfair Trade Practices) of the Louisiana Insurance Code, the commissioner shall impose penalties, sanctions or fines as delineated in Part XXIV and XXVI of the Louisiana Insurance Code and may seek injunctive relief against all unlicensed person(s) who violate the provisions contained herein.

Section 7. Effective Date

This regulation shall become effective September 30, 1998.

A public hearing on this proposed regulation will be held on July 30, 1998 in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, Louisiana, at 10 o'clock a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may obtain a copy of this proposed regulation, and may submit oral or written comments to Claire I. Lemoine, Senior Attorney, Department of Insurance, P.O. Box 94214, Baton Rouge, Louisiana 70804-9214, telephone (504) 342-5317. Comments will be accepted through the close of business at 4:30 p.m. July 29, 1998.

James H. "Jim" Brown
Commissioner of Insurance

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 65—Bail Bond

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that Regulation 65 would result in any implementation costs or savings to local or state governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that Regulation 65 would result in any increase or decrease in revenue collections by state or local governmental units. There are currently 571 licensed bail bond agents/solicitors in the state. No significant increase or decrease in the number of licensed agents is expected as a result of this regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Only licensed bail bond agents would be allowed to carry out apprehensions and surrenders of principals in the state of Louisiana; however, no direct economic benefit to them or to non-governmental groups is expected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Regulation 65 prevents unlicensed bail bond agents from the apprehension and surrender of principals in Louisiana. It is not anticipated that this would have any impact on employment and competition.

Donald J. McLean, Jr.
Assistant Commissioner
Management and Finance

Richard W. England
Assistant to the
Legislative Fiscal Officer

9806#049

NOTICE OF INTENT

Department of Labor
Plumbing Board

Examination Integrity (LAC 46:LV.311)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Plumbing Board proposes to implement a new rule regarding the conduct of its examinations for licenses established by the Plumbing Law, R.S. 37:1361 et seq. The proposed rule prohibits certain uses of resource materials by examinees and establishes appeal rights for examinees determined to have violated these prohibitions.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LV. Plumbers
Chapter 3. Licenses
§311. Integrity of Examination

The Board may reject an examination for any license or endorsement under this Chapter, if it is determined that the applicant completed any portion of any such examination with the assistance of any other person or unauthorized written materials secreted into the examination site. Examinees will be allowed to utilize resource or industry code materials approved by the Board or its examiners conducting the examination. Examinees determined to have violated the prohibitions of this section shall be notified in writing and, upon request by the examinee or at the direction of the Executive Director, an informal conference before the Executive Director or committee appointed by the Board will be conducted. An affected examinee may appeal the determination reached in the informal conference by filing a written appeal with the Board. Such appeal hearings shall comport with the provisions of R.S. 49:955(B). Based on the evidence adduced at any such hearing, the board may impose sanctions upon the examinee with respect to any subsequently administered examination and related licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366 (D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 24:

Interested parties may comment on the proposed rule in writing on or before July 18, 1998 to Don Traylor, Executive Director, Plumbing Board, 2714 Canal Street, Suite 512, New Orleans, LA 70056.

Don Traylor
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Examination Integrity

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no costs or savings to State or local governmental units associated with the adoption of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of State or local governmental units by the adoption of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental units associated with the adoption of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no significant effect on competition and employment anticipated in connection with the adoption of the proposed rule.

Louis L. Robein
Designee/Fund Attorney
9806#077

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Labor
Plumbing Board

Examination Requirements (LAC 46:LV.305)

The Louisiana State Plumbing Board ("Board"), pursuant to R.S. 37:1366(A) and (D) and 1377, proposes to amend and restate Plumbing Regulation, LAC 46:LV.305.B, in accordance with the Administrative Procedure Act. The proposed rule change notifies the public of the establishment of a centralized testing location for persons seeking licensing as a journeyman or master plumber. Since the applicable rule relating examinations for master plumber applicants, LAC 46:LV.306, states that such examinations are to be conducted in conjunction with examinations conducted pursuant to §305.B, there is no need to restate the former rule. LAC 46:LV.305.B will be restated and/or amended as follows:

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LV. Plumbers
Chapter 3. Licenses
§305. Requirements to Take Exam for Journeyman Plumber's License

* * *

B. Regular quarterly examinations will be held on the first Saturday of January, April, July and October in the City of Baton Rouge, or on such days specially set by the board. Regularly scheduled examinations are subject to postponement or relocation to accommodate legal holidays or other conditions beyond the control of the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(A) and (D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended LR 14:440 (July 1988), LR 15:1088 (December 1989), repromulgated, as amended, by the Department of Employment and Training, Plumbing Board, LR 17:51 (January 1991), amended by the Department of Labor, Plumbing Board, LR 24:

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Any interested person may submit written comments regarding the content of this proposed rule to Don Traylor, Executive Director, 2714 Canal Street, Suite 512, New Orleans, LA, no later than 5 p.m., July 16, 1998.

Don Traylor
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Examination Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the Louisiana State Plumbing Board (Board) will save an estimated $500 annually in examiner compensation, travel reimbursements and storage costs realized through the consolidation of quarterly examinations for license applicants at a central Baton Rouge situs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of State or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated economic benefits to directly affected persons is slightly beneficial. A centralized testing situs will offer greater testing opportunities to more interested persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that a favorable effect on competition in the Plumbing Industry will result from centralized testing facilities conducting regularly scheduled licensing examination.

Louis L. Robein
Designee/Fund Attorney
9806#075

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Natural Resources
Office of the Secretary

Oyster Lease Relocation Program (LAC 43:I.850-858)

In accordance with the laws of the State of Louisiana, and with reference to the provisions of Title 56 of the Louisiana Revised Statutes of 1950, the Secretary of the Department of Natural Resources will consider evidence relative to the proposed rules governing the administration of the Oyster Lease Relocation Program, for 40 days after said publication.

The proposed amendments represent the views of the Secretary as of this date; however, the Secretary reserves the right to make additions or deletions prior to final adoption.

Title 43
NATURAL RESOURCES
Part I. Office of the Secretary
Chapter 8. Coastal Restoration
Subchapter B. Oyster Lease Relocation Program

§850. Purpose

LAC 43:I.Subchapter B is adopted pursuant to R.S. 56:432.1 et seq. to provide for the filing and processing, and the fair and expeditious Relocation of Oyster Leases, pursuant to Part XV of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950. These rules are designed to insure that the Relocation procedure is as simple as possible, and these rules shall be interpreted in that spirit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:

§851. Definitions

Affected Lease—a current oyster lease which has been identified by the Department from records provided and maintained by DWF as being located in a Coastal Restoration Project Area, for which Project a specific funding source consistent with the provisions of either R.S. 56:432.1.E or R.S. 56:432.1.F is available, if required to implement these regulations and related statutes.

Coastal Restoration Project—a project authorized pursuant to R.S. 49:213.6, funded pursuant to R.S. 49:213.7, and implemented by the Secretary pursuant to R.S. 49:214.4.B and C.

Coastal Restoration Project Area—geographical extent of a Coastal Restoration Project as delineated by the responsible government agency or agencies for that Project.

Cultch Currency Matrix—an array used to determine the quantity of cultch material required to replicate certain substrate types located on specific lease areas.

DWF—the Louisiana Department of Wildlife and Fisheries, its Secretary, or his or her designee.

Department—the Louisiana Department of Natural Resources, its Secretary, or his or her designee.

Exchange Lease—a lease or leases of comparable value to the Affected Lease.

Leaseholder—the lessee of an oyster lease granted by DWF pursuant to R.S. 56:425 et seq., based on records provided and maintained by DWF.

Replacement Lease—a lease or leases selected by the Leaseholder in accordance with §855.G.

Secretary—the Secretary of the Department of Natural Resources or his or her designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:

§852. Notification of Leaseholders

A. Upon a determination by the Secretary that a specific Coastal Restoration Project authorized pursuant to R.S. 49:213.6 may potentially have an adverse impact on existing oyster leases issued by DWF *and* if funding is required, a specific funding source consistent with R.S. 56:432.1.E or R.S. 56:432.1.F is available to implement this regulation for such Project, the Secretary shall, to the last address furnished to DWF by the Leaseholder, make a reasonable effort to provide notice of the Coastal Restoration Project to the Leaseholders of all Affected Leases located, either partially or wholly, within the Coastal Restoration Project Area.

B. Any notification made by the Secretary shall be deemed to have been made if sent by certified or priority United States mail, postage pre-paid, or pre-paid receipted express delivery service, or facsimile, to the last address furnished to DWF by the Leaseholder. Such notification shall include, at a minimum:

1. a description of the Coastal Restoration Project, and a map depicting the Coastal Restoration Project Area;
2. a copy of these regulations;
3. a statement that informs the Leaseholder that the Leaseholder's desire to participate in the relocation program must be confirmed in writing and delivered by certified mail to the Secretary within 30 days of the date of the notification letter. The statement shall also inform the Leaseholder that, should such confirmation not be received timely, then the Department shall presume that the Leaseholder does not desire to participate in the relocation program;
4. a statement that informs the Leaseholders that limited funding is available, and that available funds used to implement the provisions of LAC 43:I.Subchapter B shall be distributed to participating Leaseholders in the order in which responses from the Leaseholders are received (i.e., on a "first come, first serve" basis); and
5. a response form to be completed and returned to the Department, which form shall provide information confirming the Leaseholder's mailing address and the Leaseholder's selection of a relocation option.

C. In the event that multiple responses returned to the Department in accordance with §852.B.3 and §852.B.5 are received by the Department on the same day, the order of priority for the utilization of available funds shall be established by the drawing of lots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:

§853. Options

Upon a determination by the Secretary in accordance with LAC 43:I.852, the options listed in §§854, 855, 856 and 857 shall be available to Leaseholder(s) of lease(s) located in a Coastal Restoration Project Area. Notwithstanding any other provision in these regulations to the contrary, any obligation of the Department to expend funds shall be subject to the availability of funds as described in §852.A and the prioritization of funding as described in §852.B.4, except for the exchange option as provided in §854.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:

§854. Exchange

A. The exchange of an Affected Lease, including the Department's responsibility for payment of application and survey costs, shall be subject to the availability of funds as described in §852.A and the prioritization of funding as

escribed in §852.B.4. However, the Secretary may, at his discretion, make the exchange option available for specific Affected Leases notwithstanding the unavailability of funds as described in §852.A.

B. A Leaseholder may elect to exchange the Affected Lease for a lease or leases as described in §854.C on other acreage currently available for lease located outside of a Coastal Restoration Project Area which is acceptable to both the Leaseholder and DWF. Lease exchanges shall be in accordance with R.S. 56:423.1.B(1) and shall serve as a continuance of comparable operations for the Leaseholder. Exchange Leases shall begin a new term. Subject to the provisions of §854.A, the Department shall be responsible for all application and survey costs, except that payment will not be made for cost of survey of more than two Replacement Leases.

C. If the Leaseholder elects this option, the Department shall notify DWF. Affected Leases shall be exchanged for a maximum number of Exchange Leases as follows provided that the combined acreage of the Exchange Lease or Leases shall not exceed the acreage of the Affected Lease by more than ten percent.

1. Affected Leases between 0 and 20 acres in size shall be exchanged for no more than one Exchange Lease.

2. Affected Leases between 21 and 200 acres in size shall be exchanged for no more than two Exchange Leases.

3. Affected Leases between 201 and 500 acres in size shall be exchanged for no more than three Exchange Leases.

4. Affected Leases between 501 and 1000 acres in size shall be exchanged for no more than four Exchange Leases.

D. Within 30 days of the Department's receipt of the Leaseholder's response required in accordance with §852.B, the Leaseholder shall submit an application for an Exchange Lease or Leases. Applications for Exchange Lease locations shall be submitted by the Leaseholder and processed by DWF in accordance with the provisions of LAC 76:VII.501, "Oyster Leases," and §854.B and C.

E. Applications for Exchange Lease or Leases shall be accompanied by a written request from the Leaseholder to cancel the Affected Lease on December 31 of the calender year immediately following the calender year of application for the Exchange Lease or Leases. This written request shall be executed by the Leaseholder on a form provided by DWF. In the event that the term of the Affected Lease will expire prior to December 31 of the calender year immediately following the calender year of application for the Exchange Lease, the Department shall request that DWF, in accordance with the provisions of R.S. 56:428.1, issue a one-year bobtail lease for that Affected Lease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:

§855. Relocation

A. The relocation of an Affected Lease, including the Department's responsibility for payment or reimbursement as provided in §855.C, shall be subject to the availability of funds and priority of funding, as described in §852.A and §852.B.4, respectively.

B. The Leaseholder may elect to relocate the Affected ease to another lease area. The Affected Lease shall be assessed to determine, according to the amounts in the "Cultch Currency Matrix," §859.A, Table 1, the quantity of cultch material needed to relocate the Affected Lease. The Leaseholder shall cause the placement of that quantity of cultch material on:

1. any existing lease or leases held by the Leaseholder (other than in a Coastal Restoration Project Area); or

2. new available lease acreage selected by the Leaseholder in accordance with the provisions of §855.G.

C. Subject to the provisions of §855.A, the Department shall provide the following to make the Replacement Lease of comparable value to the Affected Lease.

1. Reimbursement, in accordance with the Department's determination of reasonable and allowable costs made under the provisions of §855.E, for the planting of the "Cultch Currency" equivalent in environmentally suitable cultch material.

2. Reimbursement, in accordance with the Department's determination of reasonable and allowable costs made under the provisions of §855.E, for the relocation of any live seed oysters present from the Affected Lease.

3. Reimbursement, in accordance with the Department's determination of reasonable and allowable costs made under the provisions of §855.E, for the marking, in accordance with the requirements of DWF, of the Replacement Lease.

4. the payment of any lease survey costs and application fees for the Replacement Lease or Leases, except that payment will not be made for cost of survey of more than two Replacement Leases.

D. The Affected Lease shall be evaluated to determine its "Cultch Currency" equivalent in cubic yards. The "Cultch Currency Matrix," §859.A, Table 1, provides a method to determine the quantity of cultch material required to replicate the substrate types located on specific lease areas.

1. The Leaseholder shall complete an authorization granting the Department or its contractors the right to enter the Affected Lease for the purpose of making an assessment of that lease.

2. An oyster biologist, certified under the provisions of LAC 43:I.4105, "Rules Governing Proceedings Before the Oyster Lease Damage Evaluation Board, Certification and Selection of Biologists," shall assess the Affected Lease to determine the quantity of cultch material required to replicate the substrate in "Cultch Currency."

a. The bottom substrates of the Affected Lease shall be assessed and evaluated by the oyster biologist to determine the spacial extent of the different bottom substrates present on each Affected Lease. A bottom substrate map shall be drawn showing the areas of each substrate. The area of each substrate contained within the Affected Lease shall be multiplied by the "Cultch Currency" value shown in §859.A, Table 1 for that particular substrate. Using the Cultch Currency Matrix, the total value, in cubic yards, of the existing bottom substrates shall be determined by the Department.

E. The Leaseholder shall be notified, by certified or priority United States mail, postage pre-paid, or pre-paid receipted express delivery service, or facsimile, of the determination of the Cultch Currency equivalent of the existing

ease, and the Department's determination of the level of reimbursement which is reasonable and allowable to effect the placement of the cultch currency quantity on a replacement lease selected by the Leaseholder; *and* cause the relocation of any living seed oysters; *and* effect the marking, in accordance with the requirements of DWF, of no more than two Replacement Leases.

1. Upon such notification, the Leaseholder shall have 30 days to either accept the reimbursement offer made by the Department, or to request purchase of the lease in accordance with §857.

2. In the event that the Leaseholder disagrees with the determination made by the Department of the total value of the existing bottom substrates according to the Cultch Currency Matrix, the Leaseholder may file a request for reconsideration in accordance with §858.

F. Upon acceptance of the reimbursement offer, the Leaseholder shall have 90 days to notify the Department of the date and lease or leases on which it intends to cause the placement of the cultch; such date shall be no later than 12 months from the Leaseholder's acceptance of the Department's offer made in accordance with §855.E.1. Upon placement of the cultch, the Leaseholder shall certify to the Department, in writing, that such placement has occurred. Such certification shall be accompanied by a receipt or invoice for allowable costs of the cultch placement stating the cost of the placement, as well as the location and quantity of such placement. Within 90 days of the receipt of such certification, the Department shall reimburse the Leaseholder for the amount of the invoice or receipt; provided, however, that the Department shall not reimburse the Leaseholder for any amount in excess of the Department's written determination of the level of reasonable and allowable compensation made in accordance with §855.E.

G. The Leaseholder shall elect to place the cultch either on an existing lease or leases currently held by the Leaseholder (provided that such existing lease or leases are not located in a Coastal Restoration Project Area), or on a Replacement Lease or Leases. If the Leaseholder elects the Replacement Lease or Leases option, the Department shall notify DWF. Affected Leases shall be exchanged for a maximum number of Replacement Leases as follows provided that the combined acreage of the Exchange Lease or Leases shall not exceed the acreage of the Affected Lease by more than ten percent.

1. Affected Leases between 0 and 20 acres in size shall be exchanged for no more than one Replacement Lease.

2. Affected Leases between 21 and 200 acres in size shall be exchanged for no more than two Replacement Leases.

3. Affected Leases between 201 and 500 acres in size shall be exchanged for no more than three Replacement Leases.

4. Affected Leases between 501 and 1000 acres in size shall be exchanged for no more than four Replacement Leases.

H. Within 30 days of the mailing of the Leaseholder's acceptance of the Department's reimbursement offer, the Leaseholder shall submit an application for Replacement Lease(s). Such applications shall be submitted and processed in accordance with the provisions of LAC 76:VII.501, "Oyster Leases" and §855.G.

I. Subject to the limitations of §855.I.1, the Leaseholder shall have one year after the date on which the Leaseholder's selection of its relocation option is mailed to the Department in accordance with §852.B to remove any living seed and/or marketable oysters from the Affected Lease.

1. In the event that the Department notifies the Leaseholder that, due to Coastal Restoration Project implementation schedules, less than one year will be available for the removal of living marketable and seed oysters from the Affected Lease, the Leaseholder may request that the Department provide compensation for the losses of living marketable and/or live seed oysters remaining on the Affected Lease. Subject to the availability of funds as described in §852.A and §852.B.4, the Department shall cause the value of those remaining oyster resources to be determined, and, offer compensation for reasonable and allowable losses.

2. In the event that the Department notifies the Leaseholder, that due to delays in the Coastal Restoration Project implementation schedules, more than one year exists for the removal living marketable and/or seek oysters from the Affected Leases, the Secretary may, at his discretion, allow the Leaseholder, to continue the removal of any living marketable and/or seed oysters provided that the Leaseholder shall execute a receipt, release and hold harmless agreement which states that the lease is subservient and subordinate to the Coastal Restoration Project and that the Leaseholder accepts the risks of continuing to remove marketable and/or seed oysters in the area affected by this Project.

J. Applications for replacement leases shall be accompanied by a written request from the Leaseholder to cancel the Affected Lease on December 31 of the calender year immediately following the calender year of application for the Replacement Lease. This written request shall be executed by the Leaseholder on a form provided by DWF. In the event that the Affected Lease term will expire prior to December 31 of the calender year immediately following the calender year of application for the replacement lease, the Department shall request that DWF, in accordance with the provisions of R.S. 56:428.1, issue a one-year bobtail lease for the Affected Lease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:

§856. Retention

A. The Leaseholder may elect to retain the Affected Lease without compensation. If the Leaseholder elects to retain the Affected Lease, he shall execute a release and hold harmless agreement and this election shall stipulate that the retained lease is subservient and subordinate to any Coastal Restoration Project, and that the Leaseholder accepts the risks of operating in the area affected by such projects.

B. Subsequent to election to retain, and in accordance with the provisions of R.S. 56:432.1.B(3), a Leaseholder may seek to pursue another option specified in §854, §855, or §857. In such event, the Leaseholder shall request the Secretary's

approval to utilize another option. The Secretary shall make every reasonable effort to accommodate such requests. However, in the event that a funding source is not available which meets the requirements of R.S. 56:432.1.E or R.S. 56:432.1.F, such request shall be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:

§857. Purchase

A. The Department's purchase of an Affected Lease shall be subject to the availability of funds and priority of funding as described in §852.A and §852.B.4, respectively.

B. Subsequent to the Department's notification its determination of reasonable and allowable compensation has been in accordance with §855.E, the Leaseholder may elect to request that the Department purchase the Affected Lease. The Department, at its discretion, may purchase the Affected Lease, together with all improvements, if the purchase price is less than the reasonable and allowable compensation determined by the Secretary in accordance with §855.E.

C. Upon execution of a mutually agreeable purchase agreement, and payment of the purchase price, the Affected Lease shall be canceled on December 31 of the calendar year of purchase.

D. The Leaseholder may, at its sole cost, risk, and expense, remove living oyster resources from the purchased lease prior to its cancellation in accordance with §857.C, or prior to project implementation, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:

§858. Appeals

A. A determination of the level of reasonable and allowable compensation shall be reconsidered by the Secretary upon the Department's timely receipt of the Leaseholder's written notice under §858.C.1.

B. The reconsideration by the Secretary shall be limited to two bases.

1. The Leaseholder has substantial technical information evidencing inaccuracies in the bottom substrate map prepared under the requirements of §855.E. for the Affected Lease, or inaccuracies in the assessment of the quantity of living (i.e., live seed and marketable) oysters on the Affected Lease.

2. The Leaseholder has evidence that the determination of reasonable and allowable compensation is not consistent with the specific provisions of R.S. 56:432.1.

C. The Leaseholder's request for reconsideration under §858 shall be made in writing to the Secretary, within 30 days of the Secretary's determination of reasonable and allowable costs, and shall include, at a minimum:

1. a description of the specific basis for the request for reconsideration; and

2. written report that includes specific technical information substantiating any alleged inaccuracies in the bottom substrate map or in the assessment of the quantity of living oysters on the Affected Lease.

D. The Secretary's decision shall be made to the Leaseholder, in writing, within 45 days of the Department's receipt of the request for reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:

§859. Cultch Currency Matrix

A. Table 1

Table 1 **CULTCH CURRENCY MATRIX:** Matrix Values and Corresponding "Cultch Currencies"

Substrate Type	***Matrix Value**	**Cultch Currency** (Cubic Yds/Acre)
Reef	100 percent	187 cy/ac
Shell/Cultch	80 percent	150 cy/ac
Firm Mud	1 percent	2 cy/ac
Buried Shell	1 percent	2 cy/ac
Soft Mud/Sand	1 percent	2 cy/ac

B. The "Cultch Currency Matrix" is partially based on the Oyster Bottom Evaluation Methodology Report (Ray, Sammy M. 1996. Oyster Bottom Evaluation Methodology Report. Report to the La DNR, Baton Rouge, La. 20pp.). The quantities of cultch listed are specific for the type of substrate that the Leaseholder has on his existing lease. The DWF has determined that the rate of 150 cy/acre is sufficient to plant cultch for a state live seed ground and §859.A, Table 1 reflects that quantity as the cultch currency for the shell/cultch substrate type. The other cultch currency quantities are calculated depending on the matrix value percentage for each substrate.

C. Cultch Currency Matrix Example

Example
The Affected Lease is ten (10) acres in size and consists of 5 acres of shell reef, 2.5 acres of buried shell and 2.5 acres of soft mud. The formula for total cultch currency becomes:

"Total Cultch Currency" = the sum of substrate areas X cultch currencies/substrates or

Total Cultch Currency = Substrate 1 X Cultch 1 + Substrate 2 X Cultch 2 + Substrate 3 X Cultch 3

where
Substrate 1 = the quantity, in acres, of the Substrate Type 1 on the Affected Lease,
Cultch 1 = the cultch currency value, in cy/acre, of Substrate Type 1 on the Affected Lease,
Substrate 2 = the quantity, in acres, of the Substrate Type 2 on the Affected Lease,
Cultch 2 = the cultch currency value, in cy/acre, of Substrate Type 2 on the Affected Lease,
Substrate 3 = the quantity, in acres, of the Substrate Type 3 on the Affected Lease, and
Cultch 3 = the cultch currency value, in cy/acre, of Substrate Type 3 on the Affected Lease.

Using Table 1, in our example, our formula and values become:

Total Cultch Currency = 5 ac (shell reef) X 187 cy/ac + 2.5 ac (buried shell) X 2 cy/ac + 2.5 ac (soft mud) X 2 cy/ac
Total Cultch Currency = 5 X 187 cy/ac+ 2.5 X 2 cy/ac + 2.5 X 2 cy/ac = 935 cy + 5 cy + 5 cy = 945 cy of cultch

Therefore in our example, 945 cy of cultch material is needed to relocate the existing 10 acre lease consisting of 5 acres of shell reef, 2.5 acres of moderate buried shell and 2.5 acres of soft mud. This amount of cultch material would be delivered by the Leaseholder, and if approved, the costs will be reimbursed by DNR, to the leases(s) of the Leaseholder's choosing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 24:

Comments and views regarding the proposed Amendments may be directed in written form to be received no later than 5:00 p.m., July 30, 1998. A public hearing will also be held Thursday, July 30, 1998 at the Jean Lafitte Historical Parks and Preserve, The Wetlands Acadian Cultural Center Auditorium 314 St. Mary Street, Thibodaux Louisiana 70301. Direct comments to: Jack C. Caldwell, Secretary, Post Office Box 94396, Baton Rouge, Louisiana 70804-4396.

Jack C. Caldwell
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Oyster Release Relocation Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The shared cost of the Oyster Lease Relocation Program to the state and federal governments is expected to be as follows:

Fiscal 1998-1999	$3,689,000
Fiscal 1999-2000	$2,567,610
Fiscal 2000-2001	$2,567,610
Total	**$8,824,220**

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no net effect on tax revenue collections to the state and local governments as the majority of the leases will be moved to areas which are intended to be equally as productive as the current lease locations. The actual long term effect may be to preserve the tax base from the oyster industry.

There will however be an increase in federal revenues available to the State due to the federal participation in the cost of moving the leases.

The increased federal revenues will be as follows:

Fiscal 1998-1999	$2,766,750
Fiscal 1999-2000	$1,925,708
Fiscal 2000-2001	$1,925,708
Total	**$6,618,166**

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A positive impact on the oyster industry is expected. If coastal wetlands loss is not abated the conditions may deteriorate to the point that oyster productivity will be adversely affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No specific effects are anticipated, although a long-term overall increase in competition and employment may result from increased productivity of Louisiana's coastal resources, especially oysters.

Robert D. Harper
Undersecretary
9806#074

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Public Safety and Corrections
Board of Private Investigator Examiners

Apprentice Licensing (LAC 46:LVII.512)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505(B)(1), the Department of Public Safety and Corrections, State Board of Private Investigator Examiners, hereby gives notice of its intent to amend Part LVII of Title 46, amending Chapter 5, Section 512.B and C.1 pertaining to licensing of apprentice private investigators.

This rule and regulation is an amendment to the initial rules and regulations promulgated by the State Board of Private Investigator Examiners.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LVII. Private Investigator Examiners
Chapter 5. Application, Licensing, Training, Registration and Fees
§512. Licensing of Apprentices

* * *

B. An apprentice license shall be effective for one year only; and the apprentice shall operate as a private investigator only under the immediate direction, control and supervision of the sponsoring agency during that time.

C.1. The sponsoring agency shall be directly responsible for the supervising and training of the apprentice.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(A)(3) and (B)(1); and R.S. 37:3514(A)(4)(a).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 22:459 (June 1996), amended LR 24:

Comments should be forwarded to Linda F. Magri, Chairman of the board, Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, LA 70808. Written comments will be accepted through the close of business on July 27, 1998.

Linda F. Magri
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Apprentice Licensing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The operating expenditures for the Louisiana State Board of Private Investigator Examiners for fiscal year 1997-1998 are estimated to be approximately $233,500; and for fiscal year 1998-1999 are estimated to be approximately $223,600.

It is estimated that costs of $350 will be incurred in fiscal year 1998-1999 to print and distribute this amended rule and regulation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collections caused by the adoption of this rule. The board is currently licensing apprentices. The rule simply deletes certain requirements for supervision of apprentices.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Licensees and supervisory agencies may save costs occasioned by the deletion of certain requirements previously required regarding apprentice supervision.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as the change to the rules will effect all persons and companies with apprentices.

Celia R. Cangelosi
Attorney for the Board
9806#060

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Gaming Control Board

Board Hearings (LAC 42:III.108)

The Gaming Control Board hereby gives notice that it intends to amend LAC 42:III.108 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42
LOUISIANA GAMING
Part III. Gaming Control Board
Chapter 1. General Provisions
§108. Board Hearings

* * *

E. A copy of the hearing officer's decision shall be mailed to all parties within two (2) business days of the date the decision is rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:77 (January 1997), amended LR 24:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone number (504) 342-2465, and may submit written comments relative to these proposed rules, through July 10, 1998, to 339 Florida Boulevard, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Board Hearings

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs to state or local government units estimated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits to directly affected persons or nongovernmental groups are estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9806#022

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Alcoholic Beverage Direct
Shipment (LAC 55:VII.901 and 903)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the authority of R.S. 14:93.20 and R.S. 26:364(D), notice is hereby given that the Department of Revenue, Office of Alcohol and Tobacco

ontrol proposes to adopt LAC 55:VII.901 and 903, pertaining to direct shipments of beverage alcohol to consumers within the state by wholesalers, retailers, or producers domiciled outside the state.

Act 728 of the 1997 Regular Session of the Louisiana Legislature enacted R.S. 14:93.20, which provides for the crime of unlawful shipments of beverage alcohol to Louisiana consumers under certain circumstances. R.S. 26:364(D) authorizes the Department of Revenue to establish by regulation any procedure for reporting or properly identifying shipments into the state.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Chapter 9. Direct Shipments of Beverage Alcohol

§901. Identification of Shipments

A. All shipments made by a wholesaler, retailer, or producer of beverage alcohol domiciled outside the state of Louisiana that are shipped directly to any consumer in Louisiana shall be identified as follows:

1. the words "Alcoholic Beverage—Direct Shipment" shall be marked and clearly visible on both the front and back of the package in lettering measuring at least one quarter inch in height; and

2. the words "Unlawful to Sell or Deliver to Anyone under 21 Years of Age" must be clearly visible on the front of the package, in lettering measuring at least one quarter inch in height.

B. The Louisiana registration or permit number assigned by the Office of Alcohol and Tobacco Control, pursuant to R.S. 14:93.20(C), of the wholesaler, retailer, or producer shall be clearly displayed on the front of the package.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:93.20 and R.S. 26:364(D).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

§903. Reporting of Shipments

A. For each shipment made by a wholesaler, retailer, or producer of beverage alcohol domiciled outside the state of Louisiana that is shipped directly to any consumer in the state of Louisiana, the shipper shall maintain the following records until December 31 of the year following the year in which the shipment was made. These records shall be available for inspection by the Office of Alcohol and Tobacco Control upon request

1. An invoice detailing the transaction as required by R.S. 14:93.20(C), which shall include, in addition to any other requirements of law, a line for the signature of the person receiving the shipment and the certification that the recipient is 21 years of age or older. The certification shall read as follows:

> I acknowledge receipt of the referenced shipment containing beverage alcohol, and I hereby certify that I am 21 years of age or older.
>
> _____ _____
> Date of Receipt Signature of Recipient

2. Below this certification, the invoice shall include the signed and dated certification of the individual making delivery of the package containing beverage alcohol as follows:

> The person to whom this package containing beverage alcohol has been delivered has shown proper proof of age to establish that he/she is 21 years of age or older.
>
> _____ _____
> Date of Delivery Signature of Person Making Delivery

B. Each certification required by Subsection A of this Section must be signed and dated at the time of delivery to any consumer in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:93.20 and R.S. 26:364(D).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

Interested persons may submit data, views or arguments, in writing, to Murphy J. Painter, Commissioner, Office of Alcohol and Tobacco Control, Department of Revenue, Box 66404, Baton Rouge, LA 70896 or by facsimile to (504)925-3975. All comments shall be submitted by 4:30 p.m., Wednesday, July 29, 1998.

A public hearing will be held on Thursday, July 30, 1998, at 1 p.m. in the Seventh Floor Conference Room, 1885 Wooddale Boulevard, Baton Rouge, LA.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Alcoholic Beverage Direct Shipment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the Beverage Alcohol Direct Shipment Program as provided for by Acts 1997 No. 728 will result in an increase in the Office of Alcohol and Tobacco Control's expenditures for the cost of two additional positions at an approximate annual cost of $60,000 for salaries and related benefits.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Requiring out-of-state dealers that directly ship beverage alcohol to instate customers to register and pay a fee will result in an increase in the Office of Alcohol and Tobacco Control's self-generated funds. During the first quarter of 1998, 40 companies registered and paid the $100 registration fee. Based on this data, it is estimated that 160 companies will register each year and pay total fees of $16,000. A four percent annual growth rate was assumed to estimate the subsequent years.

In addition, requiring out-of-state dealers to collect the proper sales and excise taxes from direct shipments to instate customers will likely result in an increase in sales and excise tax collections, assuming that these monies were not previously collected. The Department does not have data to estimate the amount of these possible revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Out-of-state dealers that directly ship beverage alcohol to instate customers will incur increased costs for the annual $100 registration fee as well as increased administrative burden required to file the registration and sales invoice information. Based on registrations from the first quarter of 1998, it is estimated that 160 companies will register each year and pay

total fees of $16,000. The dealers' increased administrative costs cannot be determined, but is expected to be minimal.

In addition, registered out-of-state dealers will collect the proper sales and excise taxes from direct shipments to instate customers, which could result in an increase in customer costs, assuming that these monies were not previously collected. The Department does not have data to estimate these possible additional costs.

It is possible that the receipts for these out-of-state dealers may be adversely impacted if customers, who purchased beverage alcohol from them only to avoid proper payment of sales and excise taxes, now choose to purchase from instate sellers. There is no data available to estimate this possible impact.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Acts 1997 No. 728 should equalize the competition for instate and out-of-state beverage alcohol dealers by ensuring proper registration and collection of the taxes. No impact on employment is expected.

Murphy J. Painter	H. Gordon Monk
Commissioner	Staff Director
9806#028	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Family Support

Family Independence Temporary Assistance Program (FITAP) Food Stamp—Disqualifications (LAC 67:III.1118)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to Public Law 105-33, the Balanced Budget Act of 1997, a change in the eligibility of a recipient convicted of a drug-related felony offense is required, since the governing date of the federal statute now applies to the date of the offense rather than the date of conviction. The agency received clarification of the change in April 1998, and an emergency rule effected this revised regulation on May 7, 1998.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 2. Family Independence Temporary Assistance Program
Chapter 11. Application, Eligibility, and Furnishing Assistance
Subchapter B. Conditions of Eligibility
§1118. Individuals Convicted of a Felony Involving a Controlled Substance

An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C.802[6]) shall be disqualified from receiving cash assistance for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date f release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:233.1. and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:449 (April 1997), amended LR 23:1708 (December 1997), LR 24:

Interested persons may submit written comments by July 28, 1998 to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on July 28, 1998 at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 504-342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Family Independence Temporary Assistance Program (FITAP)—Food Stamp Disqualifications

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The immediate implementation cost to state government is the cost of publishing the rule and the related policy revisions for the Family Independence Temporary Assistance Program (FITAP). This cost is minimal and funds for such actions are included in the program's annual budget. The change in disqualification of certain recipients convicted of drug-related crime will result in a very small number of individuals becoming eligible for FITAP benefits but the agency is unable to provide an estimate on costs at this time: special system programming would be required. (An emergency rule to effect this change beginning May 7, 1998 will prevent the assessment of any federal penalties to the state.) There are no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action will affect a small number of recipients who may not have been eligible for FITAP benefits under previous policy. Federal law excluded felons with drug-related convictions from participating if the conviction occurred after August 22, 1996 but now excludes them only when the crime occurred after that date. The agency is unable to give an estimate of benefits as there is no way to determine the number of persons that were involved without special system programming.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9806#039

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services
Office of Family Support

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

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.Subpart 5, Family Independence Work Program, known in Louisiana as "FIND Work."

Public Law 104-193, as amended by Public Law 105-33, the Balanced Budget Act of 1997 mandated certain changes in the Individual Participation Requirements for each fiscal year from 1997 to the year 2003. Those changes to be effective in October 1998 are proposed as follows in §2907: change the participation requirement for a single parent/caretaker from 20 hours per week to 25 hours per week; to reflect that both parents in a two-parent family can contribute toward the family's participation requirement; to clarify when certain educational activities are countable; to reflect that not more than 30 percent of countable families may participate in vocational education; to include that a parent or caretaker who has received cash assistance for 24 months is required to engage in work, unless exempt; and to clarify the exempt status granted to certain individuals. This rule is necessary to affect those changes.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 5. Family Independence Work Program (FIND Work)
Chapter 29. Organization
Subchapter B. Participation Requirements
§2907. Individual Participation Requirements

A.1. ...

2. A parent/caretaker not included in the cash assistance certification, for any reason other than a FIND Work sanction, is exempt.

B. ...

1. A single parent/caretaker eligible for cash assistance is required to participate at least 25 hours per week, with not fewer than 20 hours per week attributable to an activity described in §2911.A.1,2,3,4,5,9 or 10.

2. In any two-parent family eligible for cash assistance, the parent/caretaker and the other parent/caretaker in the family must participate a combined total of at least 35 hours per week, with not fewer than 30 hours per week attributable to an activity described in §2911.A.1,2,3,4,5,9 or 10. If child are is provided, the parent/caretaker and the other parent/caretaker in the family must participate a combined total of at least 55 hours per week, with not fewer than 50 hours per week attributable to an activity described in §2911.A.1,2,3,4,5,9 or 10.

3. All participation in activities described in §2911.A.6 and 7 may be counted for heads of household who have not attained 20 years of age. For all other participants, participation in activities described in §2911.A.6, 7 and 8 may be counted if the parent/caretaker meets the requirements described in §2907.B.1 or 2 for the first 20 hours of participation in all families and the first 30 hours of participation in two-parent families.

4. Not more than 30 percent of individuals in all families and in two-parent families, respectively, who meet countable participation requirements in a month, may consist of individuals who meet countable participation requirements in the vocational education activity described in §2911.A.5.

C. A parent or caretaker who has received cash assistance for 24 months (whether or not consecutive) since January 1, 1997 is required to engage in work, unless determined exempt as described in §2907.A. Engaged in work is defined as:

1. satisfactorily participating in a countable FIND Work activity as described in Subchapter C, §2911; or

2. satisfactorily participating in an alternate FIND Work activity approved by the Office of Family Support.

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

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

Interested persons may submit written comments by July 28, 1998 to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, Louisiana, 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on July 28, 1998 at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Family Independence Work Program (FIND Work)—Participation Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs or savings to state or local governmental units associated with this rule. The administrative cost of

ublishing the rule and printing policy revisions is negligible.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated 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 is no anticipated effect on costs and/or benefits to directly affected persons or nongovernmental units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9806#040

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services
Office of Family Support

Food Stamps—Drug-Related Disqualification
(LAC 67:III.1707 and Chapter 19)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.Subpart 3, Food Stamps.

In 1996 Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act, provided that recipients who had been convicted after the date of enactment for certain drug-related offenses would be disqualified from participation in the Food Stamp Program. Public Law 105-33, the Balanced Budget Act of 1997, amended the law to provide that the offense had to have occurred after that date. This clarification was received by the agency in April 1998 and an emergency rule to amend LAC 67:III.1988 was signed on May 7, 1998. This Notice proposes the change in program regulations.

Also, since Louisiana now issues food stamp benefits electronically, additional sections citing the actual food coupons and the Authorization-to-Participate (ATP) cards will be repealed or amended to remove such references. §1917 includes updating of regulations affecting meal providers pursuant to USDA, FNS Waiver Number 970311 granted to the OFS Electronic Benefits Transfer section (see Notice of Intent, LR 24:816). In §1935 reference to an obsolete policy manual is being deleted with no essential change in the regulation.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 3. Food Stamps
Chapter 17. Administration
Subchapter B. General Administrative Requirements
§1707. Elimination of Food Stamp Purchase

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 43:47846 et seq. and R.S. 49:954.1(C), 7 CFR 274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 4:511 (December 1978), repealed by the Department of Social Services, Office of Family Support, LR 24:

Chapter 19. Certification of Eligible Households
Subchapter B. Application Processing
§1913. Determination of Eligibility of Migrant or Seasonal Farmworkers

A. ...

1. Proration of Initial Month's Benefits. The first provision affects the proration of benefits after a break in participation in the Food Stamp Program. This provision requires that migrant and seasonal farmworkers receive the full allotment for a month of application when the household has participated in the program within 30 days prior to the date of application. Thus, unless the household's break in participation exceeds 30 days, the migrant or seasonal farm worker household is eligible for a full month's allotment, rather than a prorated allotment, in the month of application.

A.2. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 14:602 (September 1988), LR 14:871 (December 1988), amended by the Department of Social Services, Office of Family Support, LR 24:

§1917. Homeless Meal Provider

A. A *homeless meal provider* is a public or private nonprofit establishment (e.g., soup kitchen, temporary shelter) approved by the Office of Family Support that feeds homeless food stamp households. To be eligible to accept food stamp benefits, a meal provider must also be authorized by Food and Nutrition Service (FNS) after the Office of Family Support approves it.

B. The provider must serve meals that include food purchased by the establishment. A meal provider serving only meals which consist wholly of donated foods is not eligible for authorization.

C. Only those food stamp households determined to be homeless shall be permitted to use food stamp benefits to purchase prepared meals served by authorized homeless meal providers. To ensure that the use of food stamp benefits for prepared meals is restricted to homeless persons, homeless meal providers shall establish that person's right to use food stamp benefits to purchase meals.

D. Applicant meal providers must apply for approval at the Office of Family Support in their parish. An approval review at the provider's establishment will be conducted by the regional program specialist. After approval has been granted by OFS, the provider must then make application to an FNS field office to receive authorization to accept food stamp benefits. The FNS office is located at 777 Florida Street, Room 174, Baton Rouge, Louisiana 70801, telephone number 504-389-0491.

E. Homeless meal providers may accept food stamp benefits as authorized retail redemption points after authorization from the Office of Family Support and FNS. The provider will receive settlement from the Federal Treasury as

n electronic deposit directly to the provider's account at a financial institution. Homeless meal providers that redeem food stamp benefits in excess of $100 per month will be provided equipment that will allow acceptance, redemption and settlement of program funds electronically. Others may participate by using manual vouchers.

F. The use of food stamp benefits to purchase meals from homeless meal providers is voluntary on the part of food stamp recipients. Food stamp recipients must continue to be given the option of using cash if payment for a meal is required. In addition, if others have the option of eating free or making a monetary donation, homeless food stamp recipients must be given the same option (eat free, or donate money or food stamp benefits). The amount requested from homeless food stamp recipients using food stamp benefits to purchase meals may not exceed the average cost to the homeless meal provider of the food contained in a meal served to the patrons of the meal provider. If a homeless recipient voluntarily pays more than the average cost of food contained in a meal served, such payment may be accepted by the meal provider.

G. Homeless meal providers will not be permitted to serve as "authorized representative" for homeless food stamp households.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:7554 et seq., 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:437 (August 1987), LR 3:287 (May 1987), amended by the Department of Social Services, Office of Family Support, LR 24:

Subchapter E. Students

§1935. Dependent Care for Students

Eligible students with dependents must be responsible for a dependent household member under the age of six; or be responsible for the care of dependent household member who has reached the age of six but is under age 12 where the Office of Family Support has determined that adequate child care is not available; or be receiving benefits from the Family Independence Temporary Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:

Subchapter J. Determining Household Eligibility and Benefit Levels

§1985. Determining Eligibility

A.1. - 4. ...

5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:53309 et seq., 7 CFR 271, 272, 273.10, 274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services, Office of Family Support, LR 24:

§1987. Categorical Eligibility for Certain Recipients

A.1. - 2. ...

3. "Recipient" includes a person determined eligible to receive zero benefits, e.g., a person whose benefits are being recouped or a FITAP recipient whose benefits are less than 10 and therefore does not receive any cash benefits.

4. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended LR 12:755 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 24:

§1988. Eligibility Disqualification of Certain Recipients

* * *

B. An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving food stamp benefits for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:233.1, P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 23:590 (May 1997), LR 23:1710 (December 1997), LR 24:

§1992. Issuing Benefits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 274.2(c)(1).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:1268 (November 1992), LR 19:783 (June 1993), repealed LR 24:

§1993. Replacement of Benefits

A. Replacement issuances shall be provided only if a household timely reports a loss (food purchased with food stamp benefits has been destroyed in a household misfortune) and executes the proper affidavit. Replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

B. If the signed statement or affidavit is not received by the agency within 10 days of the date of report, no replacement shall be made. If the 10th day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the agency shall consider the statement timely received. Replacement issuances shall be provided to households within 10 days after report of loss or within two working days of receiving the signed affidavit, whichever date is later.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:6989 et seq., 7 CFR 273.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), amended by the Department of Social Services, Office of Family Support, LR 19:783 (June 1993), LR 24:

Interested persons may submit written comments by July 28,

998 to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on July 28, 1998 at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 504-342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Drug-Related Disqualification in Food Stamps

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The immediate implementation cost to state government is the cost of publishing the rule and the related policy revisions for the Food Stamp Program. This cost is minimal and funds for such actions are included in the program's annual budget. The change in disqualification of certain recipients convicted of drug-related crime will result in a small number of individuals becoming eligible for benefits but benefits are 100 percent federally funded. (An emergency rule to effect this change beginning May 7, 1998 will prevent the assessment of any federal penalties to the state.) There are no costs associated with other proposed changes. There are no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action will affect a small number of recipients who may not have been eligible for food stamp benefits under previous policy. Federal law excluded felons with drug-related convictions from participating if the conviction occurred after August 22, 1996 but now excludes them only when the crime occurred after that date. The agency is unable to give an estimate of benefits as there is no way to determine the number of persons that will be involved.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9806#042

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Disability Determinations
(LAC 58:I.Chapter 25)

In accordance with R.S. 49:950 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to amend and reenact the following rules revising LAC Title 58, Part I, Chapter 25. The proposed rules set forth the procedures for the administration of the disability program administered by the Board of Trustee of LASERS as established at R.S. 11:212 et seq. and 11:461 and 462.

These rules comply with the above cited statutory law and are enabled by R.S. 11:515. The purpose of the rules is to conform the rules to the current statutory requirements of the program; implement a recertification program for disability retirees as set forth in law; and to establish a rehabilitation and surveillance program for disability retirees.

Title 58
Part I. Louisiana State Employees' Retirement System
Chapter 25. Disability Determinations

§2501. Use of a Third-Party Administrator

Wherever in this chapter the term *LASERS* is used, it shall include any Third-Party Administrator (TPA) who, under contract with this system, manages any portion of the disability benefits administered by the Louisiana State Employees' Retirement System (LASERS). Claimants will be advised how to contact the TPA to fulfill their responsibility in supplying the requisite documentation to process their claim.

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 22:373 (May 1996), amended LR 24:

§2503. Application for Disability Retirement

A. Applications for disability retirement shall be submitted in accordance with instructions provided to the applicant or applicant's employer by LASERS, and shall be reviewed as follows.

1. Upon receipt of a disability application, LASERS shall verify applicant's eligibility within two (2) business days of receipt of the application.

2. The Application; Examining Physician's Report; the Disability Report by Immediate Supervisor; and Report by Applicant's Human Resource Administrator shall be reviewed for completeness.

3. If the Application or any of the required forms are incomplete or missing, the applicant shall be notified in writing, and will have ten (10) business days to furnish the requested information. If the applicant fails to comply with

this request, the Application shall be rejected as ineligible.

B. Whether the applicant is determined to be eligible or ineligible to apply for disability, the applicant shall be notified in writing by LASERS within ten (10) business days of the determination.

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 22:373 (May 1996), amended LR 24:

§2505. Disability Board Physician's Recommendation

A. LASERS shall determine the appropriate State Medical Disability Board physician to perform the initial medical examination, based on the area of medical specialty most closely related to applicant's disability.

B. If the State Medical Disability Board does not have a physician practicing in the requisite specialty, LASERS shall appoint a physician who practices in the requisite specialty to the Board or as an alternate physician to perform the initial medical examination.

C. If the applicant's condition may be terminal, LASERS shall forward applicant's medical records to the appropriate Board physician for review and recommendation.

D. If the applicant's condition is not potentially terminal, LASERS shall schedule an appointment with the appropriate Board physician. The applicant shall be notified of the appointment date and time in writing. The initial examination shall be completed within six (6) weeks of the date the completed disability application is received and eligibility is verified by LASERS.

E. LASERS shall pay the cost of the initial examination, including cost of laboratory tests, x-rays, and other direct examination procedures. If the Applicant fails to appear for this examination and the physician charges a cancellation fee, the Applicant shall be responsible for this fee.

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 22:373 (May 1996), amended LR 24:

§2507. Final Determination

A.1. LASERS shall review the Disability Board physician's recommendation and based on that recommendation, either approve, or disapprove the application. An applicant shall be considered as certified totally disabled when the Board physician declares the applicant to be totally incapacitated for the further performance of the normal duties of the job and states that such incapacity is likely to be permanent. In all cases, the examining physician shall make a recommendation if the application should be approved or disapproved. If the physicians recommendation is unclear, the file shall be forwarded to the disability manager for review. The disability manager shall contact the Board physician for clarification of the recommendation.

2. If a correction officer, probation or parole officer, or security officer of the Department of Public Safety and Corrections, or an employee of the enforcement division in the Department of Wildlife and Fisheries is found to be permanently totally or partially disabled the applicant shall be entitled to a disability retirement benefit in accordance with either R.S. 11:212 B. or 214, as applicable.

B. If the disability manager cannot make a clear determination, the file shall be sent to LASERS' Executive Director, who shall contact the Board examining physician for clarification, or another State Medical Board physician for consultation, or an appointed alternate physician shall be consulted when necessary.

C. Any unusual applications shall immediately be presented to the Executive Director for his review and determination on how it should best be handled.

D. When the final determination is made, the applicant shall be notified in writing and a copy shall be forwarded to applicant's agency.

E. A final determination shall be made within One Hundred and Twenty (120) days from the date the completed application is verified by LASERS.

F. Disability benefits shall accrue from the date the application was filed or from the day following exhaustion of all sick leave or annual leave claimed by applicant, whichever is later.

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 22:373 (May 1996), amended LR 24:

§2509. Contesting Board Physician's Determination

A. If the certification of the examining physician is contested by either the Applicant or LASERS, the contesting party shall have the right to a second medical examination if a written appeal is filed within thirty 30 days of notification of the initial determination.

B. The second examination shall be performed by a State Disability Board Physician, or appointed alternate physician. LASERS shall schedule the appointment and notify the applicant of the time and place of the second examination in writing.

C. The cost of the second examination shall be paid by the contesting party. If the Applicant fails to appear for this examination and the physician charges a cancellation fee, the Applicant shall be responsible for this fee.

D. If the second physician concurs in the findings and recommendations of the first physician, the original decision shall stand as final and binding on the parties.

E. If the second physician disagrees with the first physician's finding and recommendation, the two physicians shall select a third physician to conduct another examination. The findings and recommendations of the third physician shall be binding, and the cost of the third physician shall be paid by LASERS if the applicant is certified disabled, or by the applicant if the disability claim is denied. If the Applicant fails to appear for this examination and the physician charges a cancellation fee, the Applicant shall be responsible for this fee.

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 22:373 (May 1996), amended LR 24:

§2511. Judicial Appeal

The applicant has the right to appeal the decision that applicant is not entitled to a disability retirement to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within 30 days of the receipt of the final medical decision.

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 22:373 (May 1996), amended LR 24:

§2513. Certification of Continuing Eligibility

A. LASERS requires a disability retirees to undergo a medical examination once each year during the first five years following the disability retirement, and once in every three-year period thereafter until the retiree has reached the equivalent age of regular retirement, unless the medical evidence shows conclusively that the disability retiree cannot recover from the disability.

B. LASERS shall schedule the appointment with a State Medical Board or appointed alternate physician and notify the disability retiree of the appointment time and place in writing. The disability retiree must pay the cost of this examination. If the retiree fails to appear for this examination and the physician charges a cancellation fee, the retiree shall be responsible for this fee.

C. The disability retiree shall be notified in writing of the physician's determination.

D. If the physician does not recommend continuing disability, the disability retiree has the same appeal rights as the original applicant as set forth in §2509 herein.

E. If the disability retiree refuses to submit to the examination, his benefit shall be discontinued until he agrees to the examination. The benefit will be discontinued thirty (30) days after written notification to the disability retiree If the refusal continues for one year, all of the retiree's rights in and to the disability benefit shall be revoked.

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 22:373 (May 1996), amended LR 24:

§2515. Limitation on Earnings

A. If a disability retiree is gainfully employed, the amounts of the retiree's earnings are limited; the total amount of earnings plus the disability benefit cannot exceed his final average compensation.

B. For purposes of computing this limitation, an annual cost-of-living adjustment to the final average compensation shall be made based on the Federal Consumer Price Index for the preceding calendar year.

C. The disability retiree must notify LASERS immediately if the retiree becomes employed and the retiree's earnings will exceed the limitation.

D. Each disability retiree shall submit a notarized annual statement of earned income for the previous calendar year. The statement must be submitted no later than May 1, of each calendar year, otherwise the benefit will be discontinued effective June 1 of that calendar year, without retroactive eimbursement, until the statement is filed. If a disability retiree refuses to submit the statement for the remainder of the calendar year, all the retiree's rights in and to the disability retirement shall be revoked.

E. If the earnings limit is exceeded, future benefits shall be reduced to recover the amount of excess earnings. The disability retiree shall be notified in writing of the reduced amount at least 30 days prior to the reduction taking effect.

F. If it is determined that a disability retiree is engaged in gainful occupation which places the retiree over the earnings limit, then the amount of the disability benefit shall be reduced to an amount within the retiree's earnings limit. Should the retiree's earning capacity later change, the disability benefit may be further modified in accordance with R.S. 11:221.

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 22:373 (May 1996), amended LR 24:

§2517. Report to the Board of Trustees

A. The approved applicants' names shall be provided to the Board in addition to the monthly retirement supplement for the Board's ratification.

B. The Board shall receive a summary report of the number of applications received, the number approved, the number disapproved, a summary of the types of disabilities, the average age of approved applicants, the average number of years of state service, and the agencies of the applicants annually in March for the previous calendar year.

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 22:373 (May 1996), amended LR 24:

§2519. Appointment of Physicians to the State Medical Disability Board

Physicians may be appointed to the State Medical Disability Board or as an alternate physician by the Executive Director. Such appointments shall be subject to ratification by the Board of Trustees.

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 24:

§2521. Rehabilitation

A. In accordance with R.S. 11:462, LASERS shall make a determination whether a disability retiree will benefit from rehabilitation, to the extent that the rehabilitation will permit the disability retiree to perform the normal duties required by the job from which the retiree is collecting disability benefits, in accordance with the following procedures.

1. A case manager shall meet with the disabled employee to assess the needs and disability status.

2. The evaluation shall include discussions with health care professionals to determine if this disability retiree would benefit from rehabilitation.

3. After all aspects of the disabled retiree's situation have been reviewed, the development of an individualized rehabilitation program shall be developed. This plan shall

pell out the course of action intended to be taken to rehabilitate the disabled retiree.

4. When the rehabilitation plan has been developed, the plan shall be submitted to LASERS' Executive Director for approval.

5. Once the rehabilitation plan is approved the case manager will be responsible for monitoring, evaluating, and following through on the plan.

B. If it is determined that rehabilitation will benefit a disability retiree under §2521, participation in the rehabilitation program shall be mandatory.

C. Once the disabled retiree successfully completes the rehabilitation plan, the disability retiree shall be scheduled for a certification of continuing eligibility in accordance with §2513 herein.

D. LASERS cannot guarantee employment once rehabilitation is complete.

E. If a disability retiree participates in the rehabilitation program and cannot be rehabilitated to perform the normal duties of the retiree's job from which the retiree is disabled, but is rehabilitated to the extent that the retiree can perform certain gainful occupation and the disability retiree is employed is such an occupation, the wages earned by this disability retiree shall be subject to §2515 herein.

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 24:

§2523. Surveillance

In order to insure that a disability retiree is entitled to the benefit the retiree is receiving, when reasonable suspicion exist that the disability retiree is not permanently disabled, LASERS may initiate surveillance of the disability retiree. If the surveillance indicates that the disability retiree is not currently disabled, LASERS shall require the disability retiree to undergo a certification of continuing eligibility in accordance with §2513 herein.

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 24:

§2525. Termination of Benefits

A. Upon receipt of a final medical determination that a disability retiree is no longer disabled as a result of the failure to obtain a certification of continuing eligibility the retiree shall have the right to appeal the medical determination under §2509 herein.

B. The disability retiree has the right to appeal this decision to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within thirty (30) days of the receipt of the Board's decision.

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 24:

§2527. Notices

All notices required to be given under Chapter 25 shall be given as follows:

1. If a disability retiree, the notice shall be given with the retiree's benefit check. If the retiree is receiving his benefit through an electronic fund transfer (EFT), the EFT shall be discontinued for the month notice is required and the retiree shall receive a paper check for that month; or

2. If no benefit is being paid by LASERS, the notice shall be by certified mail, return receipt requested.

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 24:

§2529. Conversion to Regular Retirement

In accordance with R.S. 11:217, when a disability retiree vest in a regular retirement benefit under R.S. 11:441, except R.S. 11:441(4), the disability retiree shall be converted to a regular retiree upon attaining the normal vested retirement age and shall receive the full vested benefit. The retiree shall have the option to, but not be required, to select the regular retirement benefit under R.S. 11:441(4) in lieu of a disability retirement benefit if the retiree qualifies for the benefit under R.S. 11:441(4).

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 24:

Interested persons may submit written opinions, suggestions or data to Kevin P. Torres, General Counsel, the Louisiana State Employees' Retirement System, 8401 United Plaza Boulevard, Room 145, Baton Rouge, Louisiana 70809 through July 31, 1998.

James O. Wood
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Disability Determinations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No implementation costs to the state or local governmental units are anticipated because of the proposed rules. It is anticipated that the new procedures on rehabilitation should save the System money, but we will not know this until some time after the regulations become effective.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These regulations will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only economic impact would be on those persons who are recertified not disabled or rehabilitated, since they would be removed from the disability roles and would no longer receive a benefit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that those individuals who are removed from the disability roles will be seeking employment, but we have no historical data to estimate how many people this will be. Our

stimates suggest that it should be less than 30% of the current eleven hundred disability retirees in this System.

James O. Wood
Executive Director
9806#017

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of the Treasury
Housing Finance Agency

HOME Affordable Rental
Housing (LAC 16:II.105)

In accordance with R.S. 49:950 et seq., the Louisiana Housing Finance Agency is proposing to adopt the following rule amending the regulations governing the criteria used to award HOME Funds to Affordable Rental Housing Projects.

The purpose of the amendment is to increase the categories in which the projects may be awarded points toward selection for the award of HOME Funds.

Title 16
COMMUNITY AFFAIRS
Part II. Housing Finance Agency
Chapter 1. HOME Investment Partnership Program
§105. Selection Criteria to Award HOME Funds for Affordable Rental Housing

Applications for HOME Funds will be rated in accordance with the selection criteria (Appendix IX) for which the applicant must initially indicate that the project qualifies.

APPENDIX IX

Selection Criteria to Award Home Funds to Affordable Rental Housing Projects

The Applicant hereby requests priority consideration based upon the Project satisfying one or more of the following conditions (minimum threshold of 115 points required):

		POINTS
A.	*Project Provides Amenities* (attach description of amenities to be provided)	20 _____
B.	*Project Provides Community Facilities*	20 _____
C.	*Ratio of Project's Intermediary Cost to Development Costs* (See Page 5 for formula to calculate ratio)	
	(i) Less than or equal to 10 percent	20 _____
	(ii) More than 10 percent but less than or equal to 15 percent	15 _____
	(iii) More than 15 percent but less than or equal to 20 percent	10 _____
	(iv) More than 20 percent	0 _____
D.	*As indicated in Section V on Page 8, thirty percent or more of project units serve households whose incomes are at the following percentages of median income*	
	(i) 20 percent or less	25 _____
	(ii) more than 20 percent but less than 30 percent	20 _____
	(iii) more than 30 percent but less than 40 percent	15 _____
	(iv) more than 40 percent but less than 45 percent	10 _____
E.	*Project will enter Extended Low Income Use Agreement years of compliance period agreement to continue low income restrictions*	
	(i) 20 years or more	10 _____
	(ii) 25 years or more	15 _____
	(iii) 30 years or more	20 _____
.	*Project Located in Qualified Census Tract/ Difficult Development Area* / RD Target Area	25 _____
G.	*Project Serves Special Needs Groups* [Check one or more]	
	(i) Elderly _____	
	(ii) Homeless _____	
	(iii) Handicapped _____	
	(a) One Hundred Percent of units or fifty units serve special needs group	20 _____
	(b) Fifty Percent or 25 units serve special needs group	15 _____
	(c) Twenty-Five Percent or 15 units serve special needs group	10 _____
H.	*Project contains Handicapped Equipped Units*	
	(i) 5 percent but less than 10 percent	5 _____
	(ii) 10 percent but less than 15 percent	10 _____
	(iii) 15 percent or more	15 _____
I.	*Project Serves Large Families Percentage of Units having Four or more Bedrooms*	
	(i) 5 percent but less than 10 percent	5 _____
	(ii) 10 percent but less than 15 percent	10 _____
	(iii) 15 percent but less than 20 percent	15 _____
J.	*Project to Provide Supportive Services (attach description of Supportive Services to be provided, the costs thereof and the source of funding such services)*	25 _____
K.	*Project is Single Room Occupancy*	10 _____
L.	*Project is Scattered Site*	30 _____
M.	*Developer submitted an executed Referral Agreement with Local PHA pursuant to which Developer agrees to rent low income units to households at the top of PHA's waiting list*	10 _____
N.	*Project has RD Financing Commitment Letter*	10 _____
O.	*Project involves New Construction in Areas with 95 percent or more residential rental occupancy*	10 _____
P.	*Local Nonprofit Sponsor of Project*	10 _____
Q.	*Distressed Properties (written certification from HUD or RD that property is distressed must be included in application)*	20 _____
R.	*Project Receives Historic Tax Credits or involves Substantial Rehabilitation*	25 _____
	or	
	Project located in historic district but does not qualify for historic credits (Certification by local jurisdiction is required)	15 _____
S.	*Project is an Abandoned Project*	15 _____
T.	*Vacant Units in Project as Percentage of Total Units*	
	(i) Minimum of 25 percent and less than 50 percent	10 _____
	(ii) Minimum of 51 percent and less than 75 percent	20 _____
	(iii) Minimum of 76 percent and less than 100 percent	30 _____
U.	*Project involves Low Income Units which do not exceed:*	
	(i) 60 percent of the Total Project units	10 _____
	(ii) 50 percent of the Total Project units	15 _____
	(iii) 40 percent of the Total Project Units	20 _____
V.	*Leverage Ratio (Divide Total Dollars from Sources other than HOME Funds by HOME Funds and round to nearest whole multiple*)	
	1	0 _____
	2	5 _____
	3	10 _____
	4	15 _____
	5	20 _____
	6	25 _____
	7	30 _____
	8	35 _____
W.	*Project Involves Lease-to-Own of one unit buildings with Title Transfer to Occupant within 20 years of Placed in Service*	25 _____
X.	*Contact Person who Attended Agency sponsored Workshop* Specify Name of Contact Person: _____	10 _____
Y.	*Developer Fees (including Builder Profit and Builder Overhead when there exists Identity of Interest between Builder and Developer) are 10 percent or less of Developer Fee Base*	15 _____
Z.	*Penalty Points*	
	(i) Net Syndication Proceeds $\leq$ 110 percent Developer Fee	15 _____
	(ii) Incomplete or Missing Exhibits, Appendices or	

Documents
(5 - Points to be deducted per item)

Item 1.	_____	5 _____
Item 2.	_____	5 _____
Item 3.	_____	5 _____
Item 4.	_____	5 _____

5 or more Items:
Application will be deemed incomplete 5 _____

AA. *Match Certification*
Matching Certification exceeds $50,000 50 _____

AB. *LDED - Economic Development*
Project located in a geographic area certified by the Louisiana Department of Economic Development are eligible for points as follows:

Areas with an Empowerment Zone/Empowerment Community (EZ/EC) designation	20 _____
Areas showing growth of 50 percent or more in economic indicators determined by LDED	15 _____
Areas with an EZ/EC Champion Community Designation	10 _____

AC. Phase I Environmental Site Assessment prepared by qualified environmental specialist provided with application 10 _____

Formula to Calculate Ratio of Project's Intermediary Cost to Development Costs:

Step 1: Add following amounts from Appendix II.

Line II.B (Land Improvements)	$ _____
Line II.C(ii) (Demolition)	$ _____
Line II.C(iii) (Rehab or New Construction)	$ _____
TOTAL:	$ _____

Step 2: Add Following Amounts from Appendix II.

Line II.D (Subtotal)	$ _____
Line II.F (Subtotal)	$ _____
Line II.G (Subtotal)	$ _____
TOTAL:	$ _____

Step 3: Divide Total of Step II by Total of Step I and specify percentage:

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 19:908 (July 1993), amended LR 21:959 (August 1996), LR 22:717 (August 1996), LR 23:749 (June 1997), LR 24:

Any interested person may submit written comments regarding the contents of the proposed Rule to V. Jean Butler, President, Housing Finance Agency, 200 Lafayette Street, Third Floor, Baton Rouge, LA 70801. All comments must be received no later than 4:30 p.m., July 24, 1998.

V. Jean Butler
President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: HOME Affordable Rental Housing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This change will have no measurable impact to State agency fiscal operations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This change will have no effect on revenue collections for state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Developers will be able to more effectively compete for funding in order to better leverage additional financing sources.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect on competition and employment is anticipated as the result of this change.

V. Jean Butler
President
9806#051

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Farm-Raised White-Tailed Deer and Exotics
(LAC 76:XIX.109)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Wildlife and Fisheries Commission does hereby give notice of intent to adopt rules governing hunting of farm-raised white-tailed deer and exotic deer and antelope.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76
WILDLIFE AND FISHERIES
Part XIX. Hunting
Chapter 1. Resident Game Hunting Seasons
§109. Farm-Raised White-Tailed Deer and Exotics

A. Definitions

Exotics—any animal of the family *Bovidae* (except the *Tribe Bovini* [cattle]) or *Cervidae* which is not indigenous to Louisiana and which is introduced and kept within an enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry. *Exotics* shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Farm-Raised White-Tailed Deer—any animal of the species *Odocoileus virginianus* which is introduced and kept within an enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry.

Same as Outside—hunting within an enclosure must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana

Revised Statutes and as established annually by the Wildlife and Fisheries Commission for the specific geographic area in which the enclosure is located.

B. Hunting Seasons

1. Farm-Raised White-Tailed Deer: same as outside, except still hunt only during all segments.

2. Exotics: year round.

3. A Farm-Raising licensee may kill farm-raised white-tailed deer within the enclosure for which he is licensed at anytime during daylight hours after proper notice is given as required by the Department of Agriculture and Forestry Alternative Livestock Rules.

C. Methods of Take

1. Farm-Raised White-Tailed Deer: same as outside.

2. Exotics:

a. exotics may be taken with:

i. longbow (including compound bow) and arrow;

ii. shotguns not larger than 10 gauge, loaded with buckshot or rifled slug;

iii. handguns and rifles no smaller than 22 caliber center-fire;

iv. muzzle-loading rifles or pistols, 44 caliber minimum; or

v. shotguns 10 gauge or smaller; all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including saboted bullets only.

D. Shooting Hours

1. Farm-Raised White-Tailed Deer: same as outside.

2. Exotics: one-half hour before sunrise to one-half hour after sunset.

E. Bag Limit

1. Farm-Raised White-Tailed Deer: same as outside.

2. Exotics: no limit.

F. Hunting Permit and Licenses

1. Farm-Raised White-Tailed Deer: same as outside.

2. Exotics: no person shall take or attempt to take any exotic without possessing an Exotic Hunting Permit issued by the Department of Wildlife and Fisheries. An administrative fee of $50 shall be assessed for each Exotic Hunting Permit. Permits are valid only on the deer farm indicated on the face of the permit. Permits shall be issued on a fiscal year basis beginning July 1 of each calendar year and shall expire on June 30 of the following calendar year.

G. Tagging

1. Farm-Raised White-Tailed Deer: same as outside.

2. Exotics: each exotic shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the Department of Agriculture and Forestry. The tag shall remain with the carcass at all times.

H. Additional Restrictions. Except as otherwise specified herein, all of the provisions of Title 56 of the Louisiana Revised Statutes and the Wildlife and Fisheries Commission Rules pertaining to the hunting and possession of white-tailed deer shall apply to farm-raised white-tailed deer and exotics.

I. Prior Declaration of Emergency. This rule wi supplant any prior Declaration of Emergency adopted by the Wildlife and Fisheries Commission pertaining to hunting of farm-raised deer and exotics that is in effect on the effective date of this rule.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution, Article IX, Section 7, R.S. 36:601, R.S. 56:115, R.S. 56:171 et seq., and R.S. 56:651 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:

Interested persons may comment on the proposed rule in writing to Hugh Bateman, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, Louisiana, 70898-9000, until 4:30 p.m., August 5, 1998.

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Farm-Raised White-Tailed Deer and Exotics

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

An outlay of $105.00 per fiscal year for printing of Exotic Hunting Permits, along with some additional costs involved in handling and issuing of permits and enforcement of regulations will occur. Since this is a new program, the cost of these activities cannot be quantified, but are not expected to be significant. No costs or savings to local governmental units is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The amount of revenue collected will depend on the number of permits issued. The permit fee of $50.00 is to be divided equally among the Department of Wildlife and Fisheries and Department of Agriculture and Forestry. Since this is a new permit, the department is unable to determine the amount of revenue that will be generated at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Deer farmers and their hunting customers will be affected. Deer farmers will have some additional paperwork associated with providing the required Exotic Hunting Permits to their clients. Each Exotic Hunting Permit will have a fee of $50.00. White-tailed deer hunters who hunt in these enclosures will be required to have appropriate hunting licenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will have no significant impact on competition and employment.

Ronald G. Couvillion	Richard W. England
Undersecretary	Assistant to the
9806#032	Legislative Fiscal Officer

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Reef Fish—Daily Take and
Size Limits (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.335) modifying the recreational bag limit for red snapper, which is part of the existing rule for daily take, possession, and size limits for reef fishes set by the Commission. Authority for amending this Rule is included in R.S. 56:6(25)(a), 56:326.1 and 56:325.3.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§335. Reef Fish—Daily Take, Possession and Size Limits Set by Commission

A. The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations regarding the harvest of snapper, grouper, sea basses, jewfish, and amberjack within and without Louisiana's territorial waters:

Species	Recreational Bag Limits
1. Red Snapper	4 fish per person per day

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:

Interested persons may comment on the proposed rule in writing to Mr. Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 until 4:30 p.m., August 4, 1998.

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Reef Fish Daily Take and Size Limits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no state or local governmental implementation costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to any state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Rule is intended to provide consistent regulations for recreational fishers harvesting reef fishes in state waters and in adjacent Federal waters.

Reduction in bag limit of these fish may reduce benefits to recreational harvesters. Reduced benefits would occur from fixed trip costs offset by reduced total allowable harvest per day of red snapper, and from differential values of redirected harvested species compared to red snapper. Reduction in the recreational bag limit may make trips aboard some charter vessels less appealing, thereby reducing the income from those trips either through reduced profit per trip, or by reduced number of trips through loss of interested anglers. Marinas, boat launches, and associated industries could have reductions in revenues due to reduced numbers of trips by anglers targeting red snapper. The lower bag limit may extend the season over which anglers are allowed to harvest red snapper, mitigating the per trip losses. Most of these effects would be due to the existence of these rules in Federal waters rather than State waters, as most fishing activity toward red snapper occurs in Federal waters. Overall benefit reductions are not estimable at this time. Long-term benefits may also accrue to fishermen in both recreational and commercial sectors as a result of possible increases in the stocks protected by the proposed limits. No additional costs, permits, fees, workload or paperwork will occur from the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on employment in the public or private sector. Some harvesters may redirect their fishing efforts to other species, geographic areas, or into non-fishing activities.

Ronald Couvillion
Undersecretary
9806#033

Richard W. England
Assistant to the
Legislative Fiscal Officer

Legislation

LEGISLATION

State Legislature
House of Representatives

House Concurrent Resolution Number 2
of the 1998 First Extraordinary Session
by Representative Riddle

Professional Engineers and Land
Surveyors Seals (LAC 46:LXI.1701)

A CONCURRENT RESOLUTION to amend the Department of Transportation and Development Board of Registration for Professional Engineers and Land Surveyors rule (LAC 46:LXI.1701.B), to provide for when the use of seals and signatures of engineers or land surveyors is required for sewage or water facility projects, and in-kind replacement of facilities.

WHEREAS, LAC 46:LXI.1701.B provides that engineers and land surveyors are not required to affix their seal, signature, or date on any sewage facility or water facility project or in-kind replacement of water or sewage facilities in which the estimated project cost does not exceed five thousand dollars, as calculated by agency engineers reviewing the project, or for any project for the construction of individual/private water wells; and

WHEREAS, many small towns are burdened with the expense of hiring engineers for sewage or water facility projects which cost more that five thousand dollars but affect less that three thousand gallons of water or sewage per day; and

WHEREAS, it would be more efficient and less cost prohibitive for many small towns to comply with the Department of Transportation and Development Board of Registration for Professional Engineers and Land Surveyors rule if the criterion for the requirement of an engineer or land surveyor's seal, signature, and date was changed from projects with estimated costs which exceed five thousand dollars to projects which affect more than three thousand gallons of water or sewage per day; and

WHEREAS, R.S. 49:969 provides that "the legislature, by Concurrent Resolution, may suspend, amend, or repeal any rule or regulation or body of rules or regulations, or any fee or any increase, decrease, or repeal of any fee, adopted by a state department, agency, board, or commission."

THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC 46:LXI.1701.B is hereby amended to provide that engineers and land surveyors are not required to affix their seal, signature, or date on any sewage or water facility projects, or in-kind replacement of water or sewage facilities in which the estimated number of gallons of sewage or water affected does not exceed three thousand per day, as calculated by agency engineers reviewing the project, and to delete the criterion regarding the cost of such projects.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the office of the Louisiana Register, which shall make the necessary changes in the Administrative Code, and to the Department of Transportation and Development.

Hunt Downer	Randy L. Ewing
Speaker of the House of Representatives	President of the Senate

9806#018

Potpourri

POTPOURRI

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

Postponement of Clean Fuel Fleet Program
(LAC 33:III.1951-1973)

This is to advise vehicle fleet owners subject to the Louisiana Department of Environmental Quality's (LDEQ) clean fuel fleet regulation, LAC 33:III.1951-1973, of an indefinite postponement of program implementation, including registration requirements in LAC 33:III.1953.C. The clean fuel fleet program is applicable to covered fleets in Pointe Coupee Parish and the Baton Rouge five-parish serious ozone nonattainment area which includes Ascension, East Baton Rouge, Iberville, Livingston and West Baton Rouge parishes. Until further notice, the September 1, 1998 deadline for fleet registration, as noticed in the June 1997 *Louisiana Register*, is indefinitely postponed. Any questions regarding this notice may be directed to Ms. Teri Lanoue at (504) 765-0178.

It is the LDEQ's intent to withdraw the clean fuel fleet regulation and to substitute that program with surplus emission reduction credits contained in the 15 percent Rate of Progress State Implementation Plan (SIP). Communication with U.S. Environmental Protection Agency (EPA) indicates that such substitution will satisfy the Clean Air Act requirements of Section 182(c)(4)(B). The substitute program is currently under development and will be adopted and submitted as a SIP revision. Repeal of the current clean fuel fleet program will be accomplished through the rulemaking and SIP adoption processes.

Gustave Von Bodungen, P.E.
Assistant Secretary

9806#079

POTPOURRI

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

Flash Gas Calculation Methods

The Department of Environmental Quality, Air Quality Division, Engineering Section has reviewed methods of quantifying potential flash gas emissions for determining applicability of LAC 33:III.2104 to crude oil and condensate facilities. The following methods for measuring flash gas emissions have been approved by the administrative authority in accordance with LAC 33:III.2104.G.1. Measurements should be done so as to represent a worst-case, highest emission scenario.

1. Direct measurement of emissions: Test Method 1-4 (40 CFR part 60, appendix A) for determining flow rate, and Test Method 18 (40 CFR part 60, appendix A) for measuring gaseous organic compound emissions by gas chromatographic analysis.

2. Measurement of gas to oil ratio: A pressurized sample of crude or condensate is obtained from an upstream vessel (separator or heater treater) and flashed in the lab. This involves bringing the sample to sampling temperature and pressure conditions and bringing a portion of the sample to storage tank (or downstream vessel) conditions of temperature and pressure (via a pressure drop). The amount of gas released per volume of oil generated is measured to estimate gas to oil ratio. The chemical composition of the flash gas is then analyzed. Appropriate sampling and laboratory techniques require prior approval of the Air Quality Engineering Section.

As an alternative to the measurement methods above, the calculation methods below may be approved by the administrative authority on a case-by-case basis. Cases where the alternate methods may be approved include:

a). new fields or facilities not yet in production for which testing cannot be performed; and

b). process equipment which has a very low throughput in barrels per day, and/or a low API gravity. Calculations should be done so as to represent a worst-case, highest emission scenario. The alternate methods are:

1. E&PTANK program: Published by the American Petroleum Institute;

2. process simulator: Process design programs such as HYSIM and PROSIM can be used to estimate flash losses;

3. Vazquez-Beggs correlation using a representative flash gas analysis: (Vazquez, M. and H.D. Beggs. "Correlations for Fluid Physical Property Prediction," Journal of Petroleum Technology, Society of Petroleum Engineers, 1980.)

Gus Von Bodungen, P.E.
Assistant Secretary

9806#031

POTPOURRI

Office of the Governor
Commission on Law Enforcement and Administration of Criminal Justice

Law Enforcment Medal of Honor Program

The Louisiana Commission on Law Enforcement and Administration of Criminal Justice (LCLE) announces the implementation of a state Law Enforcement Medal of Honor Program. The Medal of Honor will be awarded annually in the

name of each law enforcement officer killed, accidentally or intentionally, each year in the line of duty. Nominations for the Medal of Honor will be accepted from the chief law enforcement officer of the affected agency. An Oversight Committee will review each nomination, and will determine the nominee's eligibility for the Medal of Honor. Notification of the Committee's decision will be made to the nominating agency head.

The Medal of Honor Program will accept nominations for officers killed in the line of duty from June 1 of a current year to May 30 of the following year. Nominations will be accepted for the Medal of Honor until June 30 of each year. A Medal of Honor Ceremony will be held in September of each year. The LCLE will be mailing out a formal announcement of the program and nomination format to law enforcement agencies statewide in order to honor those officers killed in the line of duty from July 3, 1997 (date of enabling legislation) to June 1, 1998.

Any questions or comments on the Medal of Honor Program should be directed to the Executive Director of the LCLE, Michael A. Ranatza, at 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

9806#020

POTPOURRI

Office of the Governor
Division of Administration
Office of Community Development

Public Hearings—HUD-Funded Programs

As set forth in 24 CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) requires state agencies which administer certain HUD programs to incorporate their planning and application requirements into one master plan called the Consolidated Plan. In Louisiana the four state agencies participating in this consolidated planning process and the HUD-funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program), the Louisiana Housing Finance Agency (HOME Investment Partnerships Program), the Department of Social Services/Office of Community Services (Emergency Shelter Grants Program), and the Department of Health and Hospitals/HIV Program Office (Housing Opportunities for Persons with AIDS Program). A summary of the four programs follows.

The Small Cities Community Development Block Grant Program provides financial assistance to parishes of less than 200,000 persons and municipalities with a population of less than 50,000 in their efforts to provide a suitable living environment, decent housing, essential community facilities, and expanded economic opportunities. Eligible activities include community infrastructure systems such as water, sewer, and street improvements, housing rehabilitation, and economic development assistance in the form of grants and loans. Projects funded under this program must principally benefit persons of low and moderate income.

The objectives of the HOME Investment Partnerships Program are:

1. to expand the supply of decent and affordable housing for low and very low income persons;
2. to stabilize the existing deteriorating owner occupied and rental housing stock through rehabilitation;
3. to provide financial and technical assistance to recipients/subrecipients; and
4. to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing.

The purpose of the Emergency Shelter Grants Program is to help local governments and community organizations to improve and expand shelter facilities serving homeless individuals and families, to meet the costs of operating homeless shelters, to provide essential services, and to perform homeless prevention activities.

The Housing Opportunities for Persons with AIDS Program provides localities with the resources and incentives to devise and implement long-term comprehensive strategies for meeting the housing needs of persons with acquired immuno-deficiency syndrome (AIDS) or related diseases and their families.

A Consolidated Plan was prepared in 1995 which outlined the State's overall housing and community development needs and a strategy for meeting those needs for federal fiscal years 1995 - 1999 and included a one year action plan for FY 1995 federal funds received for the four aforementioned HUD programs. An annual update or action plan must be prepared and publicized for each of the subsequent four program years.

The four agencies implementing these programs are preparing their consolidated annual performance and evaluation report for the FY 1997 program year which ended May 31, 1998. The purpose of that document is to report on the progress the State has made in addressing the goals and objectives identified in its Consolidated Plan and FY 1997 Consolidated Annual Action Plan.

The four agencies administering these programs are also beginning to prepare the Consolidated Annual Action Plan for the FY 1999 federal funding allocation. The Consolidated Annual Action Plan for the FY 1999 federal funds must indicate how the proposed method of distribution of resources and anticipated program income from the four HUD programs will address the priority needs and specific objectives described in the Consolidated Plan.

The State will hold public hearings for a two-fold purpose regarding these programs.

The first purpose of the hearings will be to receive comments on the State's performance during the FY 1997 program year. Copies of the consolidated annual performance and evaluation report will be available for review and each agency will present a summary of its accomplishments as identified in the performance report.

For those persons who are unable to attend the public hearings, copies of the performance report will be available for

review beginning July 27, 1998, at the Office of Community Development, State Capitol Annex, 1051 North Third Street, Room 168 in Baton Rouge; at the Louisiana Housing Finance Agency, 200 Lafayette Street, Suite 300, Baton Rouge; at the Department of Social Services/Office of Community Services, 333 Laurel Street, Room 606, Baton Rouge; and at the Department of Health and Hospitals/HIV Program Office, 1600 Canal Street, Ninth Floor, New Orleans.

Written comments on the performance report may be submitted beginning July 27, 1998, and received no later than August 12, 1998, to the Office of Community Development, Post Office Box 94095, Baton Rouge, LA 70804-9095.

The second purpose of the hearings will be to obtain views on the housing and community development needs throughout the State; those comments will assist the agencies in developing the FY 1999 Consolidated Annual Action Plan. For those persons who are unable to attend the public hearings, written comments on the needs of the State may be submitted beginning July 27, 1998, and received no later than August 12, 1998, to the Office of Community Development, Post Office Box 94095, Baton Rouge, LA 70804-9095.

The public hearings will be held on July 28, 1998, at 1:30 p.m. in the Committee Room on the third floor of the Capitol Annex, 1051 North Third Street, Baton Rouge, Louisiana, and on July 29, 1998, at 1:30 p.m. in the Council Chambers at the Pineville City Hall, 910 Main Street, Pineville, Louisiana. These facilities are accessible to persons with physical disabilities. Non-English speaking persons and persons with other disabilities requiring special accommodations should contact the Office of Community Development at (504) 342-7412 or TDD (504) 342-7422 or at the mailing address in the preceding paragraph at least five working days prior to each hearing.

Mark C. Drennen
Commissioner

9806#038

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well Number	Serial Number
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	VUA;J B Elkins et al A	001	062112
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	J B Elkins et al A	002	063654
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	J B Elkins et al A	006	063655
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	J B Elkins et al A	003	065139
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	J B Elkins et al	001	194441
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	Pardee Co	001	046389
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	Elkins Stell	002	062007
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	Armour Camp	001	063788
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	VUA;W B Roseberry	014	063971
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	Beulah Goode	001	064049
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	PET SUA;Ivey Taylor	001	077395
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	PET RA SUXX;J C Powell et al	001	157906
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	PET RA SUT;C C Beshea	001	169565
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	William I Taylor	001	170787
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	PET RA SUR;S Taylor	001	172757
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	Sanders F	001	187451
Arxana Oil & Gas Company, LLC	North Shongaloo-Red Rock	Pittman A	001	198016
Arxana Oil & Gas Company, L.L.C.	North Shongaloo-Red Rock	Camp A	004	064500
Arxana Oil & Gas Company, L.L.C.	North Shongaloo-Red Rock	Camp A	002	064356
Arxana Oil & Gas Company, L.L.C.	Bethany Longstreet	P SUR;Burford-Shows	001	204758
Arxana Oil & Gas Company, L.L.C.	Carterville	L TOK RA SUJ;B&S Supply et al	001	207491
Arxana Oil & Gas Company, L.L.C.	North Carterville	Farrington	001	171485

Arxana Oil & Gas Company, L.L.C.	North Shongaloo-Red Rock	NSRR T SU;Armour A	001	063827
Arxana Oil & Gas Company, L.L.C.	North Carterville	T K Giddens Jr et al SWD	001	146065
Arxana Oil & Gas Company, L.L.C.	North Carterville	T K Giddens Jr et al A	001	146927
Arxana Oil & Gas Company, L.L.C.	North Carterville	T K Giddens Jr et al B	001	149279
Arxana Oil & Gas Company, L.L.C.	North Carterville	Giddens C	001	168390
Arxana Oil & Gas Company, L.L.C.	North Shongaloo-Red Rock	Camp A	001	063571
Arxana Oil & Gas Company, L.L.C.	North Shongaloo-Red Rock	Camp A	005	187593
Arxana Oil & Gas Company, L.L.C.	North Shongaloo-Red Rock	Sanders G	002	076685
Arxana Oil & Gas Company, L.L.C.	North Shongaloo-Red Rock	Sanders H	001	189398
Arxana Oil & Gas Company, L.L.C.	North Shongaloo-Red Rock	Sanders G	001	189486
Arxana Oil & Gas Company, L.L.C.	North Shongaloo-Red Rock	Camp A	003	064659
Houma Operating Company, Inc.	Plum Point	10600 RA VUA;SL 11177	001	203072
Houma Operating Company, Inc.	Plum Point	VUA;SL 7594	001	164297
Houma Operating Company, Inc.	Northwest Oakley	MA 3 RD SUA;H J Young	001	204231
Tommy Neal	Port Barre	Haas-Hirsch	001	071048
Pan American Production Co.	Port Barre	Haas & Hirsch	004	028540
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Tuttle	17-14	029734
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Martin	16-12	034286
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Box	17-9	034287
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Box	17-1	035778
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Box	17-2	036210
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Tuttle	17-17	036619
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Box	17-7	036788
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Box	17-6	037061
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Box	17-8	062309
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Clift	13-06	141899
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Martin	16-11	112003
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Marston	20-4	054515
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Price Main	20-1	072667
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Price Main	20-8	088287
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Williams	21-5	089438
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Crichton	13-8	128185
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Crichton	17-15	128910
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Richardson	25-8	149563
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Price Main	20-9	153237
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Randolph Marston	13-13	154456
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Henry Bourbon	23-15	155983
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;SL 9094	024-2	157674
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Crichton	13-7	161791
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Huckabay	30-23A	204846
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold	19-11	038812
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold	19-12	04678
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold	19-6	054514
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold	18-15	119350

Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold	19-7	129151
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold	19-18	129153
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold	19-10	136244
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold	18-13	141519
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold	19-17	147229
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold	19-3	171496
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Christopher	17-16	128231
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Marston Heirs	19-8	129154
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Marston Heirs	19-9	129155
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Marston Heirs	20-17	129156
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Marston Heirs	20-05	129157
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold et al	19-14	138345
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold et al	30-17	140006
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Hayes et al	19-19	145022
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU; Herold et al	19-20	145023
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Herold et al	19-15	145024
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;SL 4304	30-19	149564
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;SL 4304	30-6	149565
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;SL 4304	20-8	149566
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Brinkerhoff	30-12	106053
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Brinkerhoff	30-23	127948
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Richardson	25-17	127953
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Richardson	30-5	127954
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Richardson	30-4	127961
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Brinkerhoff	30-13	127962
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Brinkerhoff	30-11	138344
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Brinkerhoff	30-10	149559
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Brinkerhoff	30-7	150564
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Brinkerhoff	30-20	150565
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Brinkerhoff	30-21	153236
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Richardson	25-1	990086
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Richardson	24-9	990602
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Hayne	20-03	111692
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Hayne	20-6	129158
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Hayne	20-12	129159
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;W P Hayne etal	20-7	136245
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Hayne	20-11	136246
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;W P Hayne etal	20-10	139967
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Hayne	20-14	140494
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;W P Hayne et al	19-16	145639
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;W P Hayne et al	20-13	145640
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;W P Hayne et al	20-18	146429
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Hayne	20-19	151494
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Hayne	20-21	161844

Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;W P Hayne etal	19-23	171497
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Mclelland	24-1	021265
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Mclelland	19-21	036993
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Mclelland	19-13	037259
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Mclelland	24-8	055053
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU:Mclelland	19-22	061647
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Mclelland	30-3	127949
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Mclelland	13-16	128186
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Mclelland	24-22	141520
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Mclelland	24-20	146569
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU:Mclelland	24-21	147230
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Mclelland	30-18	149562
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Mclelland	24-23	153159
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	25-15	012584
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	24-26	019824
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	25-13	080060
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	25-11	080412
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	26-9	080745
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU:Robinson	25-16	127951
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	25-10	127952
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU:Robinson	26-07	128165
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	25-07	128686
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	25-03	129611
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	25-05	129612
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	25-22	129613
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	36-7	146430
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	26-6	146570
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	25-23	157506
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	25-21	970763
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	025-9	990603
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	24-05	010777
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	24-14	012652
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	23-16	128163
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	24-011	128164
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	24-27	129614
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	23-19	136243
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	23-009	138314
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	23-10	139569
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	24-06	141533
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	23-008	143338
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	23-17	144116
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	24-18	144118
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	24-19	145025
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	23-18	149560

Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	24-12	149561
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	24-03	153158
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Kennedy	24-17	154455
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	36-01	127950
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	36-17	147231
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	36-2	148011
Rockland Oil Company	Red River-Bull Bayou	RRBB TUSC SU;Robinson	36-8	192547
Sentry Exploration, Inc.	Southwest Lake Boeuf	Libby & Blouin Ltd B	001	172625
Sentry Exploration, Inc.	Southwest Lake Boeuf	Libby & Blouin Ltd Swd	001	972481
Triangle Oil Producers, Inc.	Natchez Ferry	Schuchardt	005	126020
Triangle Oil Producers, Inc.	Natchez Ferry	Schuchardt	006	128780
Triangle Oil Producers, Inc.	Natchez Ferry	Schuchardt SWD	008	135255

Philip N. Asprodites
Commissioner

9806#080

POTPOURRI

Department of Natural Resources
Office of Conservation
Injection and Mining Division

Public Hearing—Commercial Oilfield Waste Facilities

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana revised Statutes of 1950 as amended, and the provisions of the Statewide Order Number 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Wednesday, July 29, 1998, at the Plaquemines Parish Council Chambers, 18039 Hwy 15, Pointe a La Hache, Louisiana.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the application of Newpark Environmental Services, Inc., 207 Town Center Parkway, 2nd Floor, Lafayette, Louisiana 70506. The applicant requests authorization to consolidate and relocate Newpark's two commercial oilfield (E & P) waste facilities located in Plaquemines Parish, Louisiana. The proposed facility will be located in Section 17, Township 21S, Range 31E in Plaquemines Parish, between Coast Guard Road and Canal Number 2, Venice, Louisiana.

The application is available for inspection by contacting Mr. Pierre Catrou, Office of Conservation, Injection and Mining Division, Room 257 of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana, or by visiting the Plaquemines Parish Council Office in Pointe a La Hache, Louisiana, or the Parish Library in Buras, Louisiana. Verbal information may be received by calling Mr. Catrou at 504/342-5567.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Wednesday, August 6, 1998, at the Baton Rouge Office. Comments should be directed to:

Office of Conservation
Injection and Mining Division
P.O. Box 94275
Baton Rouge, Louisiana 70804
Re: Docket Number IMD 97-12
Commercial Facility
Plaquemines Parish

Philip N. Asprodites
Commissioner

9806#082

POTPOURRI

Department of Natural Resources
Office of Conservation
Injection and Mining Division

Public Hearing—Nonhazardous Oilfield
Waste Treatment Facility

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and the provisions of the Statewide Order Number 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Wednesday, July 22, 1998, in the Thibodaux City Court Room, located on the 2nd floor of Starks Municipal Complex, 1309 Canal Boulevard in Thibodaux, Louisiana.

At such hearing, the Commissioner, or his designated representative will hear testimony relative to the application of Four Seasons Environmental, Inc. of Port Allen, Louisiana 70767. The applicant intends to construct and operate a commercial nonhazardous oilfield (exploration and production) waste treatment facility in Section 14, Township 23 South, Range 22 East in Port Fourchon, Louisiana.

The application is available for inspection by contacting Mr. Pierre Catrou, Office of Conservation, Injection and Mining Division, Room 257 of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana, or by visiting the Lafourche Parish Police Jury Office in Thibodaux, Louisiana. Verbal information may be received by calling Mr. Catrou at 504/342-5567.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., July 30, 1998, at the Baton Rouge Office. Comments should be directed to:

Office of Conservation
Injection and Mining Division
P.O. Box 94275
Baton Rouge, Louisiana 70804
Re: Docket Number IMD 96-08
Commercial Transfer Station
Lafourche Parish

Philip N. Asprodites
Commissioner

9806#081

POTPOURRI

Department of Transportation and Development
Sabine River Compact Administration

Spring Meeting Notice

The spring meeting of the Sabine River Compact Administration will be held at the Maison Dupuy, New Orleans, LA, Friday, June 19, 1998, at 9:30 a.m. The Engineering Committee will meet at the same location on Thursday, June 18, 1998, at 2 p.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the bylaws of the Sabine River Compact Administration.

The fall meeting will be held at a site in Texas to be designated at the above described meeting.

Contact person for this meeting is Mary H. Gibson, Secretary, Sabine River Compact Administration, 15091 Texas Highway, Many, LA 71449, (318) 256-4112.

Mary H. Gibson
Secretary

9806#019

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